SUPREME COURT OF THE UNITED STATES.

No. 204.

JOHN McDONOGH, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

Sitting in Chancery.

JOHN MCDONOGH
vs.
THE UNITED STATES. } No. 26.

Be it remembered, that heretofore, to wit: on the ninth day of June, being the May Term A. D. 1846, of the said court, John McDonogh, by his solicitor C. Roselius Esq. came into the office of the clerk of said court and filed his petition, which is in the words and figures following to wit:

To the Honorable Theodore H. McCaleb, Judge of the United States District Court for the District of Louisiana.

The Petition of John McDonogh, residing in the parish of Orleans, in the State of Louisiana—

Respectfully represents, that on or about the 8th of October, 1803, Don Juan De Lassize otherwise called Jean Valery Delassize, presented a petition to Don Juan Ventura Morales, then the Intendant General of the provinces of Louisiana and West Florida, praying that he might be permitted to purchase at a fair estimated price forty thousand arpents (superficial arpents) of land belonging to the King of Spain and forming part of the domain, situated on the Tanchipaho and Chifouche rivers, in the province of West Florida; that after a strict compliance with all the preliminary and intermediate steps and formalities required by the laws of Spain in such cases, the said forty thousand superficial arpents of land were sold and granted to said Juan Delassize by said Intendant General on or about the 13th of October 1803, and Don Carlos Trudeau, the surveyor general was ordered to survey said land; that said surveys were duly made, and the plats of survey were duly returned to the Intendency; and the price to be paid for said land was established by valuation or appraisement in conformity to the laws then in force, and said price was paid by said purchaser and grantee; and he was duly put into possession of said land; and your petitioner further represents, that afterwards, to wit: on or about the 20th of the month of May, 1804, and the 20th of the month of February, 1805, the sales of the land made as aforesaid were confirmed and ratified by the King of Spain, all of which, together with other necessary particulars will more fully appear from the annexed documents marked C. No. 1 and C. No. 2, made part of this petition; that on

or about the 3d of May, 1822, said Jean Valery Delassize, sold and transferred one undivided third part of said forty thousand arpents of land to your petitioner, by act passed before Marc Lafitte, a notary public; and your petitioner further represents that the metes and bounds of said land, its location and description appears more particularly, by reference to the plans and surveys thereof; that said forty thousand arpents of land are divided into five distinct tracts, which according to the figurative plan drawn by Carlos Laveau Trudeau, surveyor general of the provinces of Louisiana and West Florida, are designated by lots No. 1730, containing 6888 arpents; No. 1730, containing 9296 arpents; No. 1732 containing 8176 arpents; No. 1733 containing 12,544 arpents; and No. 1734 containing 3096 arpents, making together forty thousand arpents; and your petitioner further represents, that the titles to said tracts of land were duly presented to and proved before the land commissioners whose decision was adverse to the claim of your petitioner; that the whole of said tracts of land or the greater part thereof have either been sold by the United States or confirmed to actual settlers; that he cannot nor does not contest the title of those who are in possession of said tracts of land under the sales and confirmation aforesaid:

Wherefore your petitioner respectfully prays, that the District Attorney of the United States for the district of Louisiana may be cited to appear and answer this petition; that the validity of the title to the before described land be enquired into and decided by the court; that after due proceedings had, judgment be rendered in favor of your petitioner decreeing and recognizing that the title of your petitioner to the before described tracts of land is good and valid; and that your petitioner and his co-proprietors are entitled to enter a like quantity of land in lieu of such as has been sold or confirmed as aforesaid, according to the provisions of the act of Congress in such case made and provided; and your petitioner prays for all such other and further aid, relief and remedy as the nature of his case may require and to law and equity may appertain. And as in duty bound he will ever pray, &c. &c.

(Signed) C. ROSELIUS.

John McDonogh being duly sworn deposes and says that the facts & allegations in the foregoing petition contained are correct and true to the best of his knowledge & belief.

Sworn to & subscribed before me this 9th day of June A. D. 1847.

(Signed) JOHN McDONOGH.
(Signed) N. R. JENNINGS,
Clerk.

For exhibit or document marked "C. No. 1" made part of this petition see page 8 of this transcript:

For exhibit or document marked "C. No. 2" made part of this petition see page 15 of this transcript.

And further at the same term, to wit on the 10th of June 1846: the following citation was issued from the clerk's office:

United States District Court sitting in and for the District of Louisiana to the marshal for the District of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon S. W. Downs, U. S. district attorney, to appear before the honorable judge of the District Court of the United States sitting in and for the District of Louisiana at a District Court to be holden at New Orleans on the first Monday of July 1846, then and there to answer a petition in chancery filed against the United States wherein John McDonogh is petitioner and the United States is defendant.

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Witness the Honorable T. H. McCaleb, Judge this 10 day of June New Orleans, 1846, and 70 year of American Independence.

[SEAL] (Signed) N. R. JENNINGS,
Clerk.
by L. E. SIMONDS,
Dy. Clk.

Mem: The defendant is to enter an appearance in the clerk's office, in the above cause on or before the first Monday of July 1846—otherwise the petition may be taken pro confesso.

Marshal's return on the foregoing citation.

Received, this 11th day of June 1846, and on the same day served copies of the within citation. Plaintiff's petition and documents annexed on the within named S. W. Downs, Esq. U. S. District Attorney in the manner following, to wit: in person at New Orleans. Retd. the same day.

(Signed) W. F. WAGNER,
U. S. Marshal.

And further at the same term, to wit on the 5th of November 1846: The defendants appeared and filed of record the following answer.

JOHN MCDONOGH
vs.
THE UNITED STATES. } No. 26.

In the District Court of the United States for the District of Louisiana.

The defendants now come and for answer deny all and singular the facts and allegations of plaintiff's petition.

Wherefore they pray that said petition may be dismissed at plff's costs.

(Signed) THOMAS J. DURANT, *Atty.*

And afterwards at the December term 1846: to wit on the 12th of February 1847: the following entry was made of record.

JOHN McDONOGH
vs.
THE UNITED STATES. } No. 26.

This cause being this day fixed for trial was upon motion of the U. States District Attorney, the court being engaged in other business continued until further notice.

And afterwards at the February term, to wit on the 9th of March 1849: the complainant appeared and filed the following replication.

JOHN McDONOGH
vs.
THE UNITED STATES. } No. 26.

District Court U. S. Louisiana District.

The replication of John McDonogh, complainant to the answer of the U. States, defts.

This repliant, reserving all benefit of exception &c. saith, that he doth maintain and will prove his bill to be true and sufficient in law and that the answer of the defts. is insufficient, as this honble court may require, & prays as he hath prayed in his bill.

(Signed) A. HENNEN & C. ROSELIUS,
Solrs.

And further at the same term and on the same day, the following order was entered of record.

JOHN McDONOGH
vs.
THE UNITED STATES. } 26.

On motion of Hennen & Roselius, Esq: solicitors for the complainant, and on their shewing to the court that Theodore Guyol, Esq. notary public, now in court, has, in his possession, a certain document purporting to be an authentic copy of the original document on which the plaintiff's claim is founded and bearing date November 21st 1806, and that said copy certified over the date aforesaid is essential to the plaintiff on the trial of this cause now about

to be opened, it is ordered that the said T. Guyol, Esq. notary public, do forthwith deposite the same in the hands of the clerk of this court, taking his receipt for the same.

And thereupon the document hereinafter appearing on page 8 of this transcript as doc. "C No. 1." was deposited in court by T. Guyol, Esq. notary public.

And further at the same term, & and on the same day, the following entry was made of record:

JOHN MCDONOGH
vs.
THE UNITED STATES. } 26.

The hearing of this cause was then opened, the solicitors for the complainant and the attorney for the defendants appearing. Evidence having been adduced and argument partly heard, the further trial of the matter was continued until to morrow the 10th instant.

Evidence offered by the Complainant.

1°. The plaintiff offered in evidence, document marked "C No. 1" purporting to be a certified copy of the original grant to Juan Delassize by Juan Ventura Morales, which document is in the words and figures following to wit:

Dn. Juan Ventura Morales, contador de Exto. Intendte. y superintendte. interino de la Provincia de la Florida occidental, ministro encargado para el arreglo y conclusion de los asuntos de Rl. Hacienda en esta de la Luisiana &a.

Por quanto habiendose presentado en este tribunal Dn. Juan Delassize capitan de Regimiento de Infanteria de la Luisiana en ocho de Octubre del año pasado mil ochocientos y tres, solicitando comprar de la Rl. Hacienda quarenta mil arpanes de tierra planos en el otro lado del Lago Ponchartrain en uno de los Bayus o Rios de aquel territorio al precio de estimacion, ofreciendo pagar su importe, un tercio de contado, otro en seis meses, y el ultimo en un año contado de la fecha de la posecion, se substanio el expediente al que se unieron los documentos que a los demas de igual naturaleza, y con audiencia del Sor. Fiscal, quien ningun reparo puso a esta solicitud; por auto de trece del mismo Octubre de ochocientos tres comisione al agrimensor gral. Dn. Carlos Trudeau, para que procediese a la medida, deslinde, apeo y estimacion de los indicados quarenta mil arpanes planos de tierra pedidos por el mencionado Capitan Dn. Juan Delassize, en los parages expresados con las formalidades propuestas por el Sor. Fiscal, a cuyo fin se le entregó el expediente para que se arreglase a ellas, prevenien dole extendiese el plano y demas necesario, para que previa la exhibicion del importe se le despachase

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el Titulo en forma. Efectuada que fué la medida y apeo de los relacionados quarenta mil arpanes planos de tierra, fueron tasados a razon de cinco sueldos turneses cada uno de ellos, por los estimadores nombrados, tanto por parte de la Rl. Hacienda como por la del interisado, de cuyas referidas deligencias y operaciones practicadas mandé dar vista al dicho Sor. Fiscal de Rl. Hacienda, quien contestando sobre todo no hizo contradiccion alguna, antes bien se confomó y fué de sentir que se aprobasen el apeo, y estimacion hecha de los dichos quarenta mil arpanes, y que para que se verificase el entero del importe con la correspondiente á la media annata y conduccion á España, se pasare el expediente al Ministerio de Rl. Hacienda para la formacion de la minuta de lo que adeudase el citado Dn. Juan Delassize; en consequencia de lo que par auto de ayer aprobé la estimacion hecha de los quarenta mil arpanes á razon de cinco sueldos cada uno, y determiné que el expediente pasase al ministerio de Rl. Hacienda para que se ajustase el importe con arreglo á la tasacion, y que verificado el entero en Arcas Rs. con lo correspondiente á la media annata y conduccion, haciendose constar por carta de pago, se le despachase el titulo de propriedad en forma; y por la que libro con fecha de este dia, se acredita que el nominado Dn. Juan Delassize enteró en Arcas Rs. sin atender á las condiciones que propuso, todo el valor de los quarenta mil arpanes planos de tierra antedichos, en certificaciones de credito contra las mismas Arcas Rs. con mas lo correspondte. al Rl. dro. de media annata y conduccion a los Reynos de España que pago en efectivo, ascendiendo lo primero á diez, y seis mil rs. de plata fuerte, y lo segundo á quatrocientos setenta y dos reales de la misma moneda, segun se evidencia del expediente del asunto á que me remito; constando igualmte. por el mismo expediente que los mencionadas quarento mil arpanes fueron medidos y demarcados en cinco terrenos, cuyas situaciones y linderos son como sigue: El primero señalado con el No. 1730, es un Terreno de seis mil ochocientos ochenta y ocho arpanes, situado en la margen izquierda del Rio Tanchipaho, inmediato á la linea de limites que separa los territorios de S. M. con el de los Estados Unidos de America, lindando á la parte del Norte con la linea de los treinta y un grados de latitud Norte, á la parte del sur, con tierra ocupada por el nombrado B. Linier, al este con tierra vacante, y al oeste, con el mismo Rio Tanchipaho. El segundo No. 1731 es otro Terreno de nueve mil, doscientos noventa y seis arpanes planos sobre la margen izquierda del mismo Rio Tanchipaho á cinco millas al sur de la linea de limites de estos Dominios de S. M. con los Estados Unidos de America, lindando á la parte del Norte con un terreno ocupado por il nombrado H. Jones, al sur y al este con tierras vacantes, y al oeste con el mismo Rio Tanchipaho. El tercero No. 1732 es de ocho mil ciento setenta y seis arpanes planos situado lo mas Norte a once millas y quarto al sur de la linea de los treinta y un grados de latitud norte y linda por esta parte con tierras y a apeadas á favor del interesado, al sur y este, con tierras vacantes,

al oeste con el Rio Tanchipaho. El quarto No. 1733, es de doce mil quinientos quarenta y quatro arpanes planos, situado en la misma margen izquierda del Rio Tanchipaho, distante la parte mas norte diez y siete millas de los treinta y un grado de latitud Norte, lindando por esta parte con otro terreno ya medido para el interesado, al sur y este, con tierras vacantes. El quinto y ultimo terreno No. 1734 es de tres mil noventa y seis arpanes de tierra situados a la entrada y lado izquierdo del Rio Chifonté, haciendo frente alLago Ponchartrain la parte del sur del terreno, y por los otros dos lados linda con tierras vacantes. Por tanto y usando de las facultades que me estan cometidas, en nombre del Rey Nuestro Señor (que Dios guarde) concedo al enunciado Dn. Juan Delassize á titulo de venta por la Rl. Hacienda los quarenta mil arpanes planos de tierra contenidos en los cinco planas figurativos de qe. va hecha mencion, y de los que se uniran copiar a este titulo para la inteligencia y conocimiento de las citadas tierras; y en su consequencia transfiero al susdicho Dn. Juan Delassize entero y directo dominio para que como suyas propias, y como tierras compradas y pagadas por el mismo a la Rl. Hacienda las posea y disponga de ella a su voluntad; y le doy poder pa. qe. aprehenda a posecion de los relacionados quarenta mil arpanes planos de tierra, y en la qe. le pongo y amparo sin perjuicio de tercero qe. mejor dro tenga, observando y guardando lo dispuesto en la instruccion que sobre tierras formo y publicó esta Intendencia en diez y siete de julio de mil setecientos noventa y nueve en quanto le comprehendan sus articulos pa. el debido cumplimiento en la parte que le toque, en fe de lo qual mandé despachar el presente firmado de mi mano, sellado con el Escudo de mis armas y refrendado por el Infrascripto Escribano de Rl. Hacienda. Dado Nueva Orleans a diez y seis de Mayo de mil ochocientos quartro, Juan Ventura Morales, Luga de Sello. Par Mandado del Sor. Intendte. Carlos Ximenes. Es copia—Nueva Orleans fecha ut supra—Carlos Ximenes.

Es copia a la letra del titulo que se halla registrado en el libro 2º. de las tierras vendidas por la intendencia de esta provincia, desde vuelta del folio 17, hasta vuelta del 20, cuyo libro con los demas del juzgado de tierras se hallan en el Archivo de esta secretaria de mi cargo á que me refiero; y de que certifico, en virtud de decreto del Sor. Brigadier Dn. Franco. Maximiliano de Tu. Maxent, Coronel del Regimiento de Infanteria de la Luisiana, Gobernador y subdelegado interino de Rl. Hacienda de esta provincia, fecha diez y ocho del presente mes, doy esta en Panzacola a veinte y uno de Noviembre de mil ochocientos diez y seis.

(Signed) Vto. Bno. FRANCO GUTIERREZ DE ARROYO.
(Signed) FRANCO MAXIMO. DE T. MAXENT.

St. Helena Land Office.

Recorded in the office of the Register and Receiver for the Western District in Lib: A. No. 3 fol: 583 &c.

(Signed) FS. HERAULT, *Clk.*

STATE OF LOUISIANA,
Parish and City of New Orleans.

Be it known that on this nineteenth day of the month of August in the year of our Lord one thousand eight hundred and thirty-six and the sixty-first of the Independence of the United States of America.

Before me Felix Grima, a notary public in & for the parish and city of New Orleans, State of Louisiana, duly commissioned and sworn, dwelling in the said city of New Orleans.

Personally came and appeared Messieurs Louis de Fevriet, Louis Seré, Antoine Cruzat and Vicente Ramos, all three residing in the said city of New Orleans and well known to me notary.

And the said appearers having been duly sworn by me notary according to law, did separately declare and say that they are well acquainted with the signature of Francisco Gutierrez de Arroyo, and Francisco Maximilien de Sn. Maxent—And the said appearers having examined the signatures affixed to the Spanish document exhibited to them and to which the present declaration is annexed did further declare and say that the said signatures are the true and genuine signatures of the said Francisco Gutierres de Arroyo and Francisco Maximilien de Sn. Maxent; and that as such full faith and credit are due to the same.

In faith whereof the said appearers have hereunto set their hands.

Sworn to and subscribed before me notary.

(Signed) LOUIS DE FEVRIET,
A. CRUZAT,
VINCENT RAMOS,
LOUIS SÉRÉ.

I the undersigned do hereby certify that the foregoing declaration of the aforesaid appearers Louis de Fevriet, Louis Seré, Antoine Cruzat and Vicente Ramos, has been made and signed by them in my presence. In witness whereof I have hereunto signed my name and affixed the impress of my seal of office at the city of New Orleans aforesaid on this nineteenth day of August eighteen hundred and thirty-six.

[SEAL.] (Signed FR. GRIMA,
Not. Pub.

UNITED STATES OF AMERICA,
State of Louisiana:

By Edward D. White, Governor of the State of Louisiana.

These are to certify, that Felix Grima, whose name is subscribed to the instrument of writing herein annexed is and was, at the time

of signing the same, a notary public in and for the parish and city of New Orleans; and that all his official acts as such are entitled to full faith and credit.

Given at New Orleans, under my hand, and seal of the State, this third day of September one thousand eight hundred and thirty six and of the Independence of the United States, the sixty first.

[SEAL.] (Signed) E. D. WHITE.

By the Governor,

(Signed) MARTIN BLACHE,
Secretary of State.

2º. The plaintiff offered in evidence document marked "C No. 2," purporting to be the Ratification by the King of Spain, of the titles to Land in the District of Baton Rouge in West Florida, which document is in the words & figures following to wit:

En Rl. orden de esta fecha communico al Gobernador de esa Provincia lo que sigue. El Rey se ha servido resolver en vista de la carta de V. S. de 31 de Agosto del año pasado No. 3 dirigida al Sor. Principe de la Paz y otra del Intendente interino de esa Provincia de 16 de Octubre del mismo No. 174 relativas a la facultad de conceder y repartir tierras realengas en el distrito de su mando, cuyo privilegio estaba radicado en el Gobierno Politico y militar desde de la Real orn. de 24 de Agosto de 1774, que por consideraciones del mejor servicio y exacto arreglo de lo mandado en el articulo 81, de la Rl. ordenanza de Intendentes de Nueva España, se reintegre y sea privativo a la Intendencia de esa Provincia el derecho de conceder y repartir toda clase de tierras con intuition de otra autoridad en los terminos legales que previene las Leyes; debiendo quedar por consequencia derogado y suprimida la facultad que residia antes en el Gobierno para estas gracias, las quales seguiran en lo succesivo a cargo de la Intenda. traslado a vmd., esta Real resolucion para su inteligencia y respectivo cumplimiento. Dios gue. a V. ms. as. San Lorenzo 22 de Octubre de 1798. Soler—Sor. Intendente interino de la Luisiana.

El Rey se ha servido aprobar que vmd. haya dispuesto la venta de algunas tierras realengas en el distrito de Baton Rouge con acuerdo de los comisarios de M. pa. la entrega de esa Provincia. Y lo aviso a vmd. de Rl. orn. para la inteligencia en contestacion a su carta de 5 de Diciembre del año proximo pasado No. 265. Dios gue. a vmd. ms. as. Aranjuez 29 de Mayo de 1804. Soler—Sor. Don Juan Ventura Morales.

Enterado el Rey de lo que vmd. expone en su carta reservada de 31 de Julio proximo pasado No. 48 en la que da cuenta de que el comandante de Panzacola Dn. Vicente Folch habia mandado al Gobernador de Baton Rouge, que desde el dia 20 de Junio no permitiese hacer apeos de tierras sin su orden ni que se diese posecion de las

vendidas por la Intendencia desde el 18 de Mayo de 1803 de lo qual se siguen, los perjuicios que vmd. expresa ha resuelto S. M. que se comunique a dicho comandante como lo executo con esta fecha, lo dispuesta en las Reales ordenes de 22 de Octubre de 98, 14 de Noviembre de 99 y 29 de Mayo 804, declarando por consequencia que vmd. debe continuar hasta su conclusion los Expedientes que haya pendenties sobre ventas de tierras y los demas que pueden ocurrir y espera que vmd. con su notorio zelo, procurara sacar de este ramo todas las ventajas posibles a favor del Rl. Erario. Todo lo qual participe a vmd. de orden de S. M. para su inteligencia. Dios gue. a vmd. ms. as. Aranjuez 20 de Febrero de 1805. Soler—Sor. Intendente interino de la Luisiana.

Las tres copias que anteceden son conformes a las Rl. ordenes que existen en los Archivos de la secretaria de la Intendencia Gral. de esta Provincia que esta a mi cargo de que certifico; y se saca esta en virtud de lo dispuesto por Sor. Ministro encargado de los asuntos de la Hacienda Nacional de ella para entregar a Dn. Pedro de Alva hijo, apoderado de Dn. Juan McDonogh. Panzacola primero de Junio de mil ochocientos trece.

(Signed) FRANCO. GUTIERREZ DE ARROYO.

Dn. Antonio Cabanas, Ministerio pral. de Exto. y Hacienda primer contador de primero clase del departamento rezago en el Tribunal superior de cuentas de la Habana, juez comisionado y encargado de todos los asuntos de la hacienda publica en esta Provincia de la Florida occidental, y del Despacho de la Intendencia de ella.

Certifico que la firma que antecede de Dn. Franco. Gutierrez de Arroyo, secretario de esta Intendencia es la que usa y acostumbra en todos sus escritos de oficio y particulares por la que se le da entera fe y credito y para que conste doy la presente firmada de mi mano sellada con mi cifra, y refrendada por el mismo secretario en Panzacola a primero de Junio de mil ochocientos y trece.

[SEAL.] (Signed) ANTONIO CABANAS.
" FRANCO. GUTIERREZ DE ARROYO.

The foregoing I certify to be a true copy of the original of record as Doc. A No. 3 in case No. 23 of the Docket.

(Signed) ROBT. M. LUSHER,
Dy. Clk. U. S. Dist. Court.

March 9, 1849.

Translation of the foregoing doct. C. No. 2.

By royal order of this date, I hereby communicate to the governor of this province, the following:

The king has been pleased to ordain in view of your letter of the 31st August of last year No. 3 adressed to his Lordship, the Prince de la Paix & of an other from the provisional intendant of this

province, dated the 16th October of the same year No. 174—both relative to the faculty of granting and locating royal lands in the district under your jurisdiction; which privilege was before vested with the Political and Military Government, since the royal decree of the 24th August 1774. That for the better accomplishment of, & exacter conformity to the tenor of the 81st article of the royal ordinance relative to intendants of New Spain, the right of granting and locating all sorts of lands, be re-invested with, & be proper to the intendency of this province, free from the interference of any other authority in the proceedings prescribed by law. Therefore, remains null and void the faculty which before rested with the government in such cases which for the future shall remain to the charge of the intendency. I transmit to you this royal resolution for your information, & its proper execution. So keep you God for many years. San Lorenzo, 22d October 1798. Soler—To the provisional intendant of Louisiana.

The king has been pleased to approve your having disposed of the sale of certain royal lands in the District of Baton Rouge, in concert with the commissioners of his majesty, for the transfer of this province; and I do inform you thereof by royal order, for your line of conduct, in answer to your letter of the 5th of December of last year No. 265. So keep you God for many years. Aranjuez, 29th May 1804. Soler—To the Sor. Dn. Juan Ventura Morales.

The king being apprized of the purport of your private letter of the 31st of July of last year No. 48 in which you mention the fact of the commandant of Pensacola, Dn. Vicente Folch, having ordered to the Governor of Baton Rouge, not to permit, from the 20th June any survey of lands without his authorization, & not to give possession of those sold by the intendency since the 18th of May 1803, from which measure have resulted the injuries you relate, his majesty has resolved the case to be communicated to said commandant, as I do communicate to him by my letter of same date, the provisions of the royal decrees of the 22d October, 98—14th November, 99 & 29th May, 804. Therefore you are to continue until final conclusion, the proceedings that may be pending relative to sales of lands and such other measures as the case requires; and I hope that with your well known zeal, you will get out of this branch of revenue, all possible advantages in favor of the royal treasury. The whole of which, I communicate to you by order of his majesty, for your direction. So keep you God for many years. Aranjuez, 20th February 1805. Soler—To the provisional intendant of Louisiana.

The three foregoing copies are conformable to the royal decrees extant in the archives of the Secretary's office, of the intendency general of this province now in my charge. In testimony whereof I grant these presents, by virtue of the decision of the Sor. Minister charged with the affairs of the national domain of said province, and at the request of Dn. Pedro de Alva, jr. attorney in fact of Mr.

John McDonogh. Pensacola the 1st of June eighteen hundred and thirteen.

(Signed) FRANCO. GUTIERREZ DE ARROYO.

I, Dn. Antonio Cabanas, chief minister of the army and domain, first treasurer of first class, of the Department of Liquidation, the superior tribunal of accounts of Havana, judge commissioned & charged with all the affairs of the public domain in this Province of West Florida & with those of the intendency thereof:

Do hereby certify that the signature which precedes, is that of Dn. Franco. Gutierrez de Arroyo Secretary of this Intendency, & the same which he uses in all his public and private writings; full faith and credit being given thereto. In testimony whereof, I grant the present, signed by me, sealed with my cypher and countersigned by the said secretary, at Pensacola the 1st of June eighteen hundred and thirteen.

[SEAL] (Signed) ANTONIO CABANAS.
FRANCO. GUTIERREZ DE ARROYO.

The two aforesaid documents marked "C No. 1. & C No. 2" were admitted by the court subject to the exceptions raised by the defendants as to their admissibility as evidence.

3°. The plaintiff offered in evidence, document marked "C No. 3," purporting to be a certified copy of an acknowledgment of property by J. V. Delassize in favor of J. McDonogh, which document is in the words & figures following to wit:

Pardevant Marc Lafitte, notaire public commissionné pour la ville & Paroisse de la Nouvelle Orleans, second district senatorial de l'Etat de la Louisiane y demeurant et en présence des temoins ci après nommés et soussignés.

Fut présent Mr. Vallery Jean Delassize proprietaire demeurant en cette ville, lequel a dit qu'il est proprietaire de quarante mille arpent de terre situes sur les rivieres Tanchiipaho & Chifonté dans la Floride occidental divisés en cinq lots distinct qui d'après ses titres de vente & un plan figuratif relevé par M. Charles Laveau Trudeau alors arpenteur general de la Province de la Louisiane sont désignés par lots: le numero dix sept cent trente se composant de six mille huit cent quatre vingt huit arpens; le numero dix sept cent trente un se composant de neuf mille derv cent quatre vingt seize arpens; le numero dix sept cent trente deux se composant de huit mille cent soixante seise arpens; le numero dix sept cent trente trois se composant de douze mille cinq cent quarante quatre arpens, et le numéro dix sept cent trente quatre se composant de trois mille quatre vingt seize arpents; la contenance desquelles terres ou lots réunis donnent les quarante mille arpens qui ont été établis. Lesquelles terres le sieur comparant a acquises du gouvernement es-

pagnol suivant titres qui lui ont été donnés au mois de mai mil huit cent quatre par Mr. Morales en sa qualité d'intendant pour le roi d'Espagne.

Qu'en l'année mil huit cent vingt au mois de janvier, il consentit d'abandonner et de delaisser à Mr. John McDonogh proprietaire en cette ville le tiers indivis de ces mêmes quarante mille arpens de terre, d'après l'engagement que prit alors le dit sieur McDonogh et qu'il a realisé depuis, de tenir y faire compte au dit sieur comparant du tiers du prix payé pour cette acquisition et de celui de tous frais que cette même acquisition avait necessité.

Et sous ce rapport que le sieur comparant reconnait avoir été rempli par le dit sieur McDonogh du tiers de tous deboursés qu'a occasionné l'achat des dits quarante mille arpens de terre & sous cette consideration que jusqu'a ce moment le dit sieur Delassize n'a pas reconner les droits du dit sieur McDonogh pour un tiers indivis dans ces mêmes quarante mille arpens de terre, le sieur comparant reconnait et declare que depuis le premier Janvier mil huit cent vingt le dit sieur John McDonogh est proprietaire légitime d'un tiers indivis dans les quarante mille arpens de terre qui viennent d'être désignés par leur situation & leurs numéros d'après les titres et les plans; transmettant au dit sieur McDonogh à ses perils risques et fortune et sans aucune autre garantie de la part du dit sieur cédant que celle qui repose sur ces mêmes titres et ces mêmes plans tous droits de proprieté pour un tiers indivis seulement dans ces mêmes quarante mille arpens de terre & l'autorisant d'en disposer comme d'un bien qui lui appartient. Reconnait deplus le dit sieur Delassize que le dit sieur McDonogh, a acquite en ses mains le tiers du montant de toutes sommes qui ont été payées et acquitées directement par le sieur comparant et ce pour la portion de son tiers dans l'acquisition des dits quarante mille arpens de terre renonçant a etablir auprès du dit sieur McDonogh aucune autre reclamation a cette même occasion, laquelle reconnaissance de proprieté, comme elle vient d'être etablie est ici acceptée par le dit sieur John McDonogh car ainsi &c.

Dout acte fait et passé à la Nouvelle Orleans en l'Etude le trois Mai mil huit cent vingt deux l'an quarante six de l'Independance des Etats Unis d'Amerique en présence de M. M. Pierre Francois Missonet et Theo. Seghers domiciliés en cette ville témoins qui ont signé avec les parties comparantes et contractantes et le notaire soussigné après lecture faite.

(Signé) DELASSIZE,
JOHN McDONOGH,
MISSONET,
THEODORE SEGHERS,
McLAFITTE, *Not. Pub.*

Pour copie conforme à l'original resté en mon etude pour recours. En foi de quoi j'ai delivré la présente signée de ma main et scellée du sceau de mon office a la Nouvelle Orleans le vingt huit Mai mil huit cent quarante six.

[SEAL.] (Signed) A. MAZUREAU,
Not. Pub.

Translation of the foregoing document " C No. 3."

Before Marc Lafitte, notary public, commissioned for the city and parish of New Orleans, second senatorial district of the State of Louisiana, residing therein, and in presence of the witnesses hereinafter named and undersigned.

Appeared Mr. Valery Jean Delassize proprietor, residing in this city, who declares that he is the owner of forty thousand acres of land situated on the Tanchiipaho and Chifonté rivers, West Florida divided into five distinct lots, which from the titles of sales and a figurative plan drawn by M. Charles Laveau Trudeau, then surveyor general of the Province of Louisiana are designated by lots: number seventeen hundred & thirty, containing six thousand eight hundred & eight arpents: number seventeen hundred & thirty one containing nine thousand two hundred & ninety six arpents: number seventeen hundred & thirty two, containing eight thousand one hundred & seventy six arpents; number seventeen hundred & thirty three, containing twelve thousand five hundred & forty four arpents; and number seventeen hundred & thirty four containing three thousand and ninety six arpents: making together the forty thousand arpents as above. Which said lands were acquired by said appearer from the Spanish government according to titles granted in the month of May eighteen hundred and four by Mr. Morales, in his quality of intendant of the king of Spain.

That in the year eighteen hundred and twenty, in the month of January, he consented to cede and abandon to Mr. John McDonogh proprietor in this city, the one undivided third of the said forty thousand arpents of land from the obligation then taken by the said McDonogh, and since complied with, of paying to the said appearer the one third of the price paid by him for the said purchase, as also of all the expences attending the said purchase.

By reason of which, and the said appearer acknowledging to have been reimbursed by the said McDonogh of the one third of all disbursement occasioned by the purchase of the said forty thousand arpents of land, and under the consideration that up to this date the said Delassize has not acknowledged the rights of the said McDonogh for the one undivided third in the same forty thousand arpents of land, the said appearer declares and acknowledges that since the first of January eighteen hundred and twenty the said John McDonogh is the legitimate proprietor of one undivided third in the said forty thousand arpents of land, above described and designated ac-

cording to the titles and plans; transferring to the said McDonogh at his risk & peril and without any guarantee on the part of said appearer, other than that existing according to the said titles & plans aforesaid all rights of ownership for one undivided third only in the said forty thousand arpens of land, and authorizing him to dispose of the same as of property unto him belonging. Acknowledging moreover that the said McDonogh has paid into his hands the third of all sums which have been paid and disbursed by him the said appearer, which payment is for the portion of his third in the purchase of said forty thousand arpents of land hereby renouncing any claim against the said McDonogh for the same. Which acknowledgment of property as herein established is accepted by the said McDonogh.

Thus done & passed at New Orleans, in my office, the third of May eighteen hundred and twenty two and forty sixth year of the Independence of the United States of America, in presence of MM. Pierre Francois Missonnet & Theodore Seghers, witnesses domiciliated in this city, who have signed with the appearers & the undersigned notary after reading of the whole.

(Signed) DELASSIZE,
JOHN McDONOGH,
MISSONET,
THEODORE SEGHERS,
McLAFITTE, *Not. Pub.*

A true copy of the original deposited in my office for reference.

In faith whereof I grant these presents under my hand and seal of office, at New Orleans, this twenty eighth of May, eighteen hundred and forty six.

[SEAL] (Signed) A. MAZUREAU,
Not. Pub.

4°. The plaintiff offered in evidence the following deposition of Louis Bouligny, as to signatures to Doc. " C No. 1.

JOHN McDONOGH
vs.
THE UNITED STATES. } 26

Testimony taken in open court.

Friday, March 9th, 1849.

On being shewn a certain document this day filed herein and marked C No. 1, Louis Bouligny Esq. sworn deposes that the signatures of Franco. Gutierrez de Arroyo and Franco. Maximilien de St. Maxent thereto attached are the genuine signatures of said persons

—witness being familiar with the same and having no doubt of the genuineness of the present. No cross-examination.

(Signed) L. BOULIGNY.

Attest. (Signed) ROBT. M. LUSHER,
Dy. Clerk.

And further at the same term, to wit on the 10th of March 1849: the following entry was made of record in this case.

JOHN McDONOGH
vs.
THE UNITED STATES, } 26.

A. Hennen, Esq: for the Complainant and the U. S. District Attorney for the defendants present:

The further hearing of this cause was continued until Friday the 16th instant.

And further at the same term, to wit on the 16th of March 1849: the following entry was made of record in this case.

JOHN McDONOGH
vs.
THE UNITED STATES, } 26.

The hearing of this cause was to-day resumed, Alfred Hennen, Esq: appearing for the complainant, & the U. S. Dist. Attorney for the defendants. Additional evidence was adduced, consisting mainly of documents (marked A No. 1 & 2) and depositions relating thereto, of record in this court in the cause of J. Delassize vs. the United States, No. 116 of the docket, & after argument by the attorney for the defendants the case was submitted.

(*Further evidence offered by the Complainant.*)

5. The plaintiff offered in evidence document marked "A No. 1" of record in the case of heirs of Delassize vs. the United States No. 116 of the docket: which document is in the words and figures following to wit:

Dn. Juan Ventura Morales, contador de Exercito, Intendente y superintendente interino de la Provincia de la Florida occidental, Ministro en cargado para el arreglo y conclusion de los asuntos de Real Hacienda en esta de la Louisiana &a.

Por quanto haviendose presentado en este tribunal Dn. Juan Delassize capitan del regimiento infanteria de la Luisiana en ocho de Octubre del año pasado de mil ochocientos tres, solicitando comprar de la Real Hacienda diez mil arpanes planos de tierra de las Realengas de la Florida occidental y distrito de Baton Rouge, al precio de estimacion; ofreciendo su importe, un tercio de contado, otro en

seis meses y el ultimo en un año contado de la fecha del titulo, se substancio el expediente al que se unieron los documentos que á los demas de igual naturaleza, y con audiencia del Sor. Fiscal de Real Hacienda, quien no puso reparo alguno a esta solicitude, por auto de trece del mismo Octubre de mil ochocientos tres, mande se librase despacho al Sor. Dn. Carlos de Grand Pré, Coronel de los Reales Exercitos, gobernador del distrito de Baton Rouge y subdelegado de este tribunal, para que se sirviese mandar hacer el apeo y justo-precio de los indicados diez mil arpanes donde se hallasen vacantes en el mencionado distrito con las formalidades prospuestas por el Sor. Fiscal de Real Hacienda, y que se en tregase dicho despacho al interesado para su presentacion al enunciado sor. gobernador, para que evacuadas las citadas diligencias y prebia la exibicion del importe se le despachase titulo en forma. Debuelto que fué dicho despacho con el lleno de las diligencias y formalidades requeridas por las que consta que fue hecha la medida y apeo por el segundo agrimensor de la Provincia Dn. Vicente Sebastian Pintado, y que la tasacion se hizo a rason de nueve sueldos cada arpan plano, por los estimadores nombrados asi por parte de la Real Hacienda, como por del interesado, de cuyas mencionadas diligencias y operaciones practicadas, mande dar vista a dicho Sor. Fiscal de Real Hacienda quien contestando sobre todo no hizo contradiccion alguna antes bien se conformó y fue de sentir que se aprobasen el apeo y estimacion hacha de los nominados diez mil arpanes y que, para que se verificase el entero del importe con lo correspondiente a la media anata y conducion a España, se parsase el expediente al ministerio de Real Hacienda para la formacion de la minuta de lo que adeudase el citado Capitan Dn. Juan Delassize; en consequencia, por auto de dos del corriente aprobe la estimacion hacha de los dies mil arpanes a rason de nueve sueldos cada uno y determiné que el agrimensor General Dn. Carlos Trudeau tomase rason y registrase el plano figurativo, y que des pues pasase el expediente al ministerio de Real Hacienda para que se ajustase el importe con arreglo a la tasacion, y que verificado el entero en arcas Reales con lo correspondiente a la media anata y conducion, haciendose constar por carta de pago, se le despachase el titulo de propiedad en forma, y por la que libro con fecha de ayer se acredita que el expresado Dn. Juan Delassize entero en arcas Reales sin atender á las conditiones que propuso todo el valor de los diez mil arpanes planos de tierra ante dichos en certificaciones de credito contra las mismas Reales Caxas, con mas lo correspondiente a media anata y conducion a los Reynos de España que pago en effectivo, ascendiendo lo primero a siete mil doscientos reales de plata fuerte, y lo segundo a doscientos doce reales y dos quintus segun se evidencia del expediente del asunto a que me refiero, por el que consta tambien que el plano figurativo contiene diez mil arpanes planos señalados con el No. 1735 en los registros del dicho Agrimensor General y que esta cituado el terreno en el nuevo establecimiento de Sta. Helena entre el Rio del mismo nombre, (alias)

Rio Amit, y el arroyo de Sta. Rosalia vulgarmente llamado Sandy Creek, distante lo mas norte de el diez y ocho millas y un quarto inglesas, al sur de la linea divisoria entre los dominios de S. M. y los Estados Unidos de America, y linda por la parte septentrional con tierras de Dn. Armando Duplantier y otras baldias, por la meridional con las de Dn. Juan Lynd y otras de Dn. Armando Duplantier, por la oriental con las apeadas para Dn. Tomas Power y con el rio de Sta. Elena ó Amit, y por la occidental se termina en la margen del Este del antedicho arroyo de Sta. Rosalia vulgarmente llamado Sandy Creek. Por tanto y usando de las facultades que me estan conferidas, en nombre del Rey nuestro Sor. (que Dios gue) concedo al enunciado Capitan Dn. Juan Delassize a titulo de venta por la Real Hacienda, los diez mil arpanes planos de tierra contenidos en el dicho plano figurativo, y baxo los linderos que en el se expresan, y del que se pondra duplicado con este titulo para la inteligencia y conocimiento de la citada tierra: y en consequencia imparto y transfiero al indicado Dn. Juan Delassize, entero y directo dominio a ellas, para que como propios suyos y como tierras compradas y pagados a la Real Hacienda, los posea y disponga de ellos a su voluntade; y le doy poder para que aprehenda la posesion de los relacionados diez mil arpanes de tierras y en la que le pongo y amparo sin perjuicio de tercero que mejor derecho tenga, observando y guardando lo dispuesto en la instruccion que sobre tierras formo y publicó esta intendencia en 17 de Julio de 1799, en quanto le comprehendan sus articulos para el devido cumplimiento en la parte que le toque. En fé de loqual mandé despachar el presente firmado de mi mano, sellado con el sello de mis armas y refrendado del infrascripto Escribano de Real Hacienda. Dado en la Nueval Orleans á diez y ocho de Mayo de mil ochocientos quatro. Juan Ventura Morales, Lugar del Sello. Por mandado de Sor. Intendente, Carlos Ximenes. Es copia fecha ut supra, Carlos Ximenes.

Es copia a la letra del titulo que se halla registrado en el libro segundo de las tierras vendidas por la Intendencia de esta Provincia desde el folio recto 21, hasta buelta del 22, cuyo libro con los demas del jusgado de tierras se hallan en el archivo de esta secretaria de mi cargo á que me refiero, y de que certifico en virtud de decreto del Sor. Biger. Dn. Franco. Maxo. de Sn. Maxent, coronel del regimiento de infanteria de la Luisiana, Gobernador y subdelagado interino de Rl. Hacienda de esta provincia, fecha diez y ocho del presente mes. Doy esta en Panzacola a veinte y uno de Noviembre de mil ochocientos dies y seis.

(Signed) FRANCO. GUTIERREZ DE ARROYO.
(Signed) Vto. Bno. FRANCO. MAXIMN. DE SN. MAXENT.

St. Helena Land Office.

Recorded in the office of the Register and Receiver for the Western district in Lib. A. No. 3 fol: 587 &c.

(Signed) FS. HERAULT, *Clerk.*

STATE OF LOUISIANA,
Parish and city of New Orleans:

Be it known that on this nineteenth day of the month of August in the year of our Lord one thousand Eight hundred and thirty-six and the sixty-first of the Independence of the United States of America.

Before me Felix Grima, a notary public in and for the Parish and city of New Orleans, State of Louisiana duly commissioned and sworn, dwelling in the said city of New Orleans.

Personally came and appeared Messieurs Louis de Fevriet, Louis Seré, Antoine Cruzat and Vicente Ramas, all three residing in the said city of New Orleans, & well known to me notary.

And the said appearers having been duly sworn according to law by me the said notary, did separately declare and say that they are well acquainted with the signature of Francisco Gutierrez de Arroyo and Francisco Maximilien de Sn. Maxent, and the said appearers having examined the signatures affixed to the Spanish document exhibited to them by me notary and to which the present declaration is annexed, did further declare and say that the said signatures are the true & genuine signatures of the said Francisco Gutierres de Arroyo and Francisco Maximilien de Sn. Maxent, and that as such full faith & credit are due to the same.

In faith whereof the said appearers have hereunto set their hands.

Sworn to and subscribed before me Notary.

(Signed) LOUIS DE FEVRIET,
AE. CRUZAT,
VINCENT RAMOS,
LOUIS SÉRÉ.

I the undersigned do hereby certify that the foregoing declaration has been made and signed by the above named appearers Louis de Fevriet, Louis Seré, Antoine Cruzat and Vicente Ramos.

In testimony whereof I have hereunto set my hand and affixed the impress of my seal of office at the city of New Orleans this nineteenth day of August eighteen hundred and thirty-six.

(Signed) FX. GRIMA,
Not. Pub.

UNITED STATES OF AMERICA,
State of Louisiana:

By Edward D. White, Governor of the State of Louisiana.

These are to certify, that Felix Grima, whose name is subscribed to the instrument of writing herein annexed is and was, at the time of signing the same, a notary public in and for the Parish and city of New Orleans; and that all his official acts as such, are entitled to full faith and credit.

Given at New Orleans, under my hand and seal of the State this

third day of September one thousand eight hundred and thirty-six and of the Independence of the United States, the sixty-first.
[SEAL.] (Signed) E. D. WHITE.

By the governor,
(Signed) MARTIN BLACHE,
Secretary of State.

(*Translation* of the foregoing document marked "A" No. 1.)

Don Juan Ventura Morales, Comptroller for the Army, Intendant & sub: Intendant pro: temp: of the Province of West Florida, Officer entrusted with the final settlement of the affairs of the Royal Treasury in Louisiana &c. &c.

Don Juan Delassize, Captain of the Regiment of Infantry, having presented himself before this tribunal on the eighth day of October of last year, desiring to purchase from the royal treasury ten thousand superficial arpents of land, of those of the royal domains in West Florida and District of Baton Rouge, offering to pay for them at the price of valuation one third in cash, one third in six months, and the last third in one year from the date of the title of property, this application was taken in consideration and accompanied with documents having reference to matters of a similar nature submitted to the Señor Fiscal (*Solicitor of the Crown*) who made no objections thereto. By an act of the thirteenth of said month of October eighteen hundred and three I directed that an order should be given to Don Carlos De Grand pré Colonel of the Royal Armies, Governor of the District of Baton Rouge & sub. delegate of this tribunal with a view that he should order to be made out the survey and valuation of said ten thousand superficial arpents of land, from those vacant in said district in conformity with the formalities recommended by the Señor Fiscal, and that said order be given to the party interested to be presented to said governor, in order that when said proceedings of survey and valuation should have taken place, and payment been made for the value of the land, a regular title be given to him. From a return made it appears that these proceedings were executed with all the formalities prescribed, that the survey & measurement of the land were made by the second surveyor of this province Don Vincent Sebastien Pintado, and the valuation was made at the rate of nine cents per superficial arpent by the appraisers appointed on behalf of the royal treasury, and of the interested party, which proceedings of survey and valuation I ordered to be submitted to the Señor Fiscal of the royal treasury, who made no objections thereto—on the contrary approved them, & was of opinion that said survey & valuation of these 10,000 superficial arpents be approved, and that in order that the payment of the value of the land with the duty of half yearly tribute, and the costs of transportation of said half yearly tribute be made, that the proceedings be sent to the office or department of the royal treasury to

have made out the calculation of the amount due by said Captain Don Juan Delassize. Consequently by a decree of the second instant I did approve the valuation, which was made of said 10,000 arpents at the rate of nine cents each, and ordered that the surveyor General Don Carlos Trudeau should record and register the figurative plan, and that the proceedings should be sent to the department of the royal treasury in order that the value should be adjusted or settled agreeably to the rate of valuation, and that on payment of the amount in the royal coffers with the duty of half yearly tribute and the costs of transportation of said duty (of which the receipt of payment shall be the evidence) a title of property in due form be delivered. From a receipt under date of yesterday it is evident that said Don Juan Delassize did pay in the royal coffers (without regard to the conditions proposed by him) the whole value of the said 10,000 arpents of land, which payment was made in certificates of credit from said royal treasury, and that he also paid the duty of half yearly tribute and the costs of transportation to the Kingdom of Spain of said half yearly tribute—to wit for the first, (the value of the land) seven thousand two hundred bits of silver—for the 2nd (the half yearly tribute and its transportation) two hundred and twelve bits and two-fifths as per calculations made out, and also from the proceedings having reference to the subject and to which I refer, which proceedings also show that the figurative plan contains 10,000 superficial arpents and bears No. 1735 in the registers or records of said surveyor general, and that said tract of land is situated in the new establishment (or post) of St. Helena between the river of said name, "alias River Amite," and the (*arroyo*) Creek of St. Rosalie, commonly called "Sandy Creek," and is distant in its most northern point 18¼ English miles from and south of the boundary line between the domains of his catholic majesty and the United States of America, bounded on the north by lands of Don Armando Duplantier & others not cultivated, on the south by lands of Don Juan Lynd & others of said Armando Duplantier, on the east by lands surveyed for Don Thomas Power and by the river St. Helena or Amite, and on the west terminating on the east bank of said rivulet or creek of St. Rosalie commonly called Sandy Creek. Therefore in virtue of the power delegated unto me, and in the name of the king, our lord (whom may God preserve) I concede to the said Captain Don Juan Delassize under title of sale from the royal treasury the 10,000 superficial arpents of land represented in said figurative plan agreeably to the boundaries therein designated, a copy of which plan will be annexed to this title, so that the situation of the land boundaries &c. &c. may be well known and understood. Consequently I impart & transfer to the said Don Juan Delassize direct and entire sovereignty over said 10,000 superficial arpents of land, that as his property from having bought and paid for them to the royal treasury, he may possess and dispose of them at his will. And I do authorize him to take possession of them, which possession

I hereby give and place him in, without prejudice to any third party who might have a better right & observing & complying with the regulations relative to lands which this intendancy did enact & publish on the 17th of July 1799. In faith whereof I have ordered these presents to be delivered—signed by me, sealed with the seal of my arms and countersigned by the undersigned notary of the royal treasury. Given in New Orleans on the eighteenth day of May eighteen hundred and four.

[SEAL.] JUAN VENTURA MORALES.

By order of his Excellency the Intendant
CARLOS XIMENES.

A copy—date as above.

CARLOS XIMENES.

The above is a copy *word for word* of the title which is registered in Book number Two of "Lands sold by the Intendancy of this Province" at folio 21 to 22. Which book and others of the Tribunal of Lands are in the archives of this office under my charge and to which I refer, this I certify in virtue of the decree of his Exy. the Brigadier Don Francisco Maxn. de Sn. Maxent, Colonel of the regiment of infantry of Louisiana, governor & subdelegate of the royal treasury of this province, under date of 18th of this month. I give this in Pensacola on the 21 day of November 1816.

(Signed) FRANCISCO GUTIERREZ DE ARROYO.

Approved, FRANCISCO MAX. DE ST. MAXENT.

J. DELASSIZE
vs.
THE UNITED STATES.

J. Delassize being duly sworn states that the documents of which the foregoing are translations together with the proces verbal, and survey of the tract of land described in the said documents, and which will be introduced into court upon the trial of this cause, are the only documents conveying title to the land in question, which this deponent has ever seen, or has any knowledge of.

(Signed) C. DELASSIZE.

Sworn to & subscribed before me this 10th day of March 1847.

(Signed) N. R. JENNINGS, *Clk.*

6°. The plaintiff offered in evidence document marked "A No. 2" of record in the case of Heirs of Delassize *vs.* The United States No. 116 of the Docket: which document is in the words and figures following to wit:

Sor. Gobernador de la Florida occidental y subdelegado de la Intendencia de la Plaza de Panzacola.

Dn. Juan Delassize capitan retirado del Regimiento de Infanteria de la Luisiana, residente en la Provincia del mismo nombre, á V. S. con el devido respeto dice: que cuandolas tropas Inglesas al mando del General Pickenham entraron en esta dha. Provincia en Diciembre de mil ochocientos y catorse apoderaron y permanecieron aquellas en la hacienda y casa del qe. representa, cituada a quatro leguas de esta ciudad rio abajo y la Saqueron enteramente, llevando parte de sus esclavos, todos sus animales, ropa de su uso y todos sus papeles entre los qe. se hallavan tres titulos de propiedad de las tierras qe. el que expone hubo del Gobierno Español, y son los siguientes.

Panzacola 12 Noviembre de 1816. Informe el Agrimensor Gral. de esta Provincia Dn. Vizente Sebastian Pintado, y el secretario de Intendencia Dn. Franco. Gutierrez de Arroyo. (Signed) ST. MAXENT.

1º. Un decreto de concesion de quinientos arpanes de tierra dadoles graciosamente pr. es Sor. Gobernador qe. fue de esta Provincia Dn. Manuel Gayoso de Lemos, con fecha de Abril de mil setecientos noventa y nueve, segun hace memoria al qe. se hallava unido el plano figurativo de la tierra con la diligencia del apeo qe. le despacho el año mil ochocientos quatro el segundo Agrimensr. qe. hera de esta Provincia, y havra Agrimensor General de esa Dn. Vicente Pintado.

2º. Un titulo en forma de quarenta mil arpanes de tierra qe. compro de la Intendencia en los rios Tanchipao y Chifonte, y cuyo titulo fue despachado en Mayo de mil ochocientos quatro.

3º. Otro titulo en forma despachado en el mismo mes y año pr. la Intendencia, de otro terreno de diez mil arpanes que compró, cituados entre el rio Amit y Sandy Creek; y deviendo estar todo registrado en los libros y registros, tanto de la Intendencia como del Agrimensor General, que de esta ciudad pasaron a esa Plaza cuando se traslado a ella el Sor. Intendente Dn. Juan Ventura Morales en principio de mil ochocientos seis, que segun noticias, no exerte ya sus funciones: Por tanto.

A V. S. suplica se sirva mandar qe. pr. los oficiales o sugetos a quienes competa y con las legalisaciones correspondientes, se despachen copias autenticas de dhos. titulos, planos y diligencias de apeo, qe. deven hallarse registrados en estas Reales oficinas, para qe. el suplicante pueda hacer constar su derecho de propiedad, estando pronto a satisfacer los derechos qe. adeude, qe. pagará Dn. Andres Monton, a quien tiene escrito al efecto: favor qe. espara de V. S. Na. Orleans y Octubre 23 de 1816.

(Signed) JN. DELASSIZE,
Sor. Gobernor. into. y subdo. de Rl. Hacienda.

Por decreto de 14 de Abril de 1799, concedió el Sr. Dn. Manuel Gayoso de Lemos, Gobernador gral. que fue de estas Provincias, a favor del teniente que era entonces Dn. Juan Delassize, un terreno

de quinientos arpanes planos, el que fue apeado por mi deputado Dn. Patricio Tegart en el lado del Oeste del Rio Comit a doze millas y tres quartos al sur de la linea de demarcacion de limites entre esta Provincia y los Estados Unidos de America, el 10 de febrero de 1804, y en 8 de Mayo del mismo año despaché plano figurativo y diligencia de apeo, que con el decreto de concesion original remité al interesado de la Nva. Feliciana á la Nva. Orleans a su pedimento como titulo de su propiedad; y asi consta del duplicado ó copia certificado de dho. plano y diligencia de apeo, que se halla en el Legajo de documentos sueltos de este Archivo de Agrimensura gral. Igualmente esta demarcado el terreno en el Plano gral. de aquel establecimiento. Y en el plano No. 6 de 5470, arpanes de las tierras compradas de la Rl. Hacienda por Dn. Juan Lynd registrado por mi antecesor Dn. Carlos Trudeau bajo el No. 1750, al fol: recto 10 del Libro VI, uno de los recibidos de mi dho. Predecesor, esta figurado tambien el antedho. terreno de Dn. Juan Delassize, por lo que no admite duda su legitimad.

Por lo respectivo á las otras dos concesiones que octuro á titulo de venta, la una de 40,000 arpanes y la otra de 10,000 en los parages que expresa, diré á V. S. que en el Lib. D No. 4, otro de los recibidos de mi citado predecesor y que principió con el No. 1575 y finalizo con el No. 1737, al fol. recto 124, se hallan cinco planos figurativos baxo los Nos. 1730 hasta 1734 inclusives conteniendo juntos 40,000 arpanes de Dn. Juan Delassize, y á continuacion la diligencia de apeo que concluye a vuelta de dho. fol: todo registrado, delineado, escrito y rubricado por mi referido predecesor, y con fha. I de Mayo de 1804. Y al. fol. 125 del mismo Libro, se halla tambien el Plano figurativo de los otros 10,000 arpanes, y a continuacn. y hasta vuelta del mismo fol. la diligencia de apeo, todo delineado, escrito y rubricado por mi susodho. predecesor y registrado por el en 9 de Mayo de 1804 baxo el No. 1735, en virtud de decreto del Sor. Intendente gral. de 2 del mismo me y año, como expresa; y el plano y diligencia original que se unio al expediente del asunto, fue formado y despachado por mi en Baton Rouge a 12 de Marzo del propio año.

V. S. en su vista se servira de terminar lo que le parezca mas arreglado. Panzacola 14 de Noviembre de 1816.

(Signed) VICENTE SEBASN. PINTADO,
Sor. Gobernor. y subdo. into. de Rl. Hacienda.

En el libro 2o. de registros de titulos en forma despachados pr. las tierras vendidas por esta Intenda. que con los demas libros y documentos del jusgado de tierras, existen en esta secretaria de mi cargo, se hallan dos registrados, y autorisados pr. el Escribano que fue de Rl. Hacienda Dn. Carlos Ximenes. El uno empieza a buelta del folio 17 y es de quarenta mil arpanes vendidos a Dn. Juan Delassize, despachado en 16 de Mayo de 1804: y el otro que Empieza al folio recto 21 es por diez mil arpanes vendidos al mismo, y despachado

en 18 del mismo mes y año. Es lo qe. puedo informar a V. S. en cumplimiento de su anterior decreto Panzacola 18 de Noviembre de 1816.

(Signed) FRANCO. GUTIERREZ DE ARROYO.

Panzacola 18 de Noviembre de 1816.

En vista de los informes antecedentes despachense las copias certificadas que solicitan en la anterior instancia por el agrimensor gral. de esta Prova., las de los planos y diligencias registradas en el libro de su Archivo que menciona; y por el secretario de Intendencia las de los titulos que refiere, satisfaciendo la parte los justos derechos.

(Signed) FRANCO. MAXIMO. DE SN. MAXENT.

[For map see original, page 43.]

Es copia. Panzacola 19 de Noviembre de 1816.

(Signed) VICENTE SEBASN. PINTADO.

Dn. Vicente Sebastian Pintado, capitan de Infanteria de los Reales Exercitos, agrimensor general de la Florida occidental por S. M.

Certifico: que en el Legazo de documentos sueltos de este Archivo de mi cargo, se halla uno con plano figurativo, del que es copia exacta el que precede, y a continuacion esta diligencia o certificacion siguiente.

"Don Vicente Sebastian Pintado, capitan de Cavalleria de las "Milicias de esta Provincia y segundo agrimensor de ella. Certifico: "que fue medido y lindado á favor de Dn. Juan Delassize, un terreno "de quinientos arpanes planos medidos a la percha lineal de Paris de "diez y ocho pies lineales la misma ciudad, contando cien perchas "planas por arpan, segun costumbre agraria de esta Provincia; cuyo "terreno esta situado en la margen occidental del rio Comit, a doce "millas y tres quartos al sur de la linea de limites entre estos domi- "nios de S. M. (que Dios gue.) y los Estados Unidos de la America, "lindando hoy por la parte del Norte con tierras de Dn. Manuel "Garcia, por la del sur y oeste con dhas. de Dn. Juan Lynd, y por "la parte del Este se termina en el dho. Rio Comit, como mas clara- "mente manifiesta el plano que antecede, en el que va figurado el "terreno con las dimensiones de sus lados anotadas en perchas "lineales, las direcciones de los mismos segun la bruxula, la decli- "nacion N. E. de esta, los arboles y mojones que sirven de linderos, "y los demas confines naturales y artificiales. El apeo se practico "en virtud de decreto del Sor. Gobernador Gral. que fue Dn. Manuel "Gayoso de Lemos, con fha. catorce de Abril de mil setecientos "noventa y nueve. Y á pedimento del interesado paro los fines que "haya lugar, doy la presente en la Nueva Feliciana en ocho dias del "mes de Mayo de mil ochocientos y cuatro años. Vicente Sebasn.

"Pintado." "Es copia del remitido con el memorial y decreto ori-"ginal mencionado, al interesado. Nva. Feliciana fha. ut supra." "Vicente Sebasn. Pintado."

Es copia del documento citado á que me referio. Y en virtud de decreto del Sr. Dn. Francisco Maximiliano De Sn. Maxent, Brigadier de los Rs. Extos. Coronel del Regimto. Infanteria de la Luisiana, Gobernador interino de esta Provincia, y subdo. de la Intendencia gral. de Rl. Hacienda en ella, fha. diez y ocho del que sige, doy esta en papel comun por no estar en practica el sellado, en Panzacola á los diez y nueve dias del mes de Noviembre de mil ochocientos diez y seis.

(Signed) VICENTE SEBASN. PINTADO.

[For Map see original, page 45.]

Pintado, Capitan de Infanteria de los Rs. Extos., Agrimensor general de la Florida occidental por S. M.

Certifico: quen en el Libro D. No. 4 de este Archivo de mi cargo, uno de los recibidos de mi predecesor Dn. Carlos Trudeau, que dió principio con el No. 1575 y finalizo con el No. 1737, al folio recto 125, y baxo el No. 1735, se halla un plano figurativo, del que es copia exacta el que precede, y a continuacion y hasta vuelta del mismo fol. 125, esta registrada del puño y letra de mi dicho predecesor y rubricada por el, la diligencia y certificacion siguiente.

"Dn. Vicente Sebtn. Pintado Capitan de cavalleria de milicias y "segundo Agrimensor &a. Certifico: que fue medido y lindado a "favor de Dn. Juan Delassize, un terreno de diez mil arpanes planos, "medidos a la percha de Paris de diez y ocho pies de la misma ciu-"dad, contando cien perchas planas por arpan, segun costumbre "agraria de esta Provincia, cuyo terreno situado en el nuevo estable-"cimiento de Sta. Helena, entre el Rio del mismo nombre, ó Amit, y el "Arroyo de Sta. Rosalia vulgarmente llamado *Sandy Creek*, dista "lo mas Norte de el diez y ocho millas y quarto Inglesas, de la Linea "divisoria entre estos dominios de S. M. y los Estados Unidos de la "America, al sur de ella; y linda por la parte Septentional con "tierras de Dn. Armando Duplantier y otras baldias, por la meri-"dional con dichas de Dn. Juan Lynd y otras de Dn. Armando Du-"plantier, por la Oriental con las apeadas para Dn. Thomas Power "y con el Rio de Sta. Helena ó Amit, y por la occidental se termina "en la margen del Este del antedho. Arroyo Sta. Rosalia vulgar-"mente llamado Sandy Creek, lo que con mas claridad se demuestra "en el Plano que antecede, en el que se ve figurado el terreno con "las dimensiones de sus lados anotadas en perchas lineales, las direc-"ciones de los limites segun la Bruxula, la declinacion N. E. de esta, "los arboles y mojones que sirven de linderos y los demas confines "naturales y artificiales." "Los dhos. diez mil arpanes planos que "el interesado compra de la Rl. Hacienda, fueron mandados a medir "estimar y evaluar por auto del Sr. Intendente general con fha. trece

"Pintado." "Es copia del remitido con el memorial y decreto ori-"ginal mencionado, al interesado. Nva. Feliciana fha. ut supra." "Vicente Sebasn. Pintado."

Es copia del documento citado á que me referio. Y en virtud de decreto del Sr. Dn. Francisco Maximiliano De Sn. Maxent, Brigadier de los Rs. Extos. Coronel del Regimto. Infanteria de la Luisiana, Gobernador interino de esta Provincia, y subdo. de la Intendencia gral. de Rl. Hacienda en ella, fha. diez y ocho del que sige, doy esta en papel comun por no estar en practica el sellado, en Panzacola á los diez y nueve dias del mes de Noviembre de mil ochocientos diez y seis.

(Signed) VICENTE SEBASN. PINTADO.

[For Map see original, page 45.]

Pintado, Capitan de Infanteria de los Rs. Extos., Agrimensor general de la Florida occidental por S. M.

Certifico: quen en el Libro D. No. 4 de este Archivo de mi cargo, uno de los recibidos de mi predecesor Dn. Carlos Trudeau, que dió principio con el No. 1575 y finalizo con el No. 1737, al folio recto 125, y baxo el No. 1735, se halla un plano figurativo, del que es copia exacta el que precede, y a continuacion y hasta vuelta del mismo fol. 125, esta registrada del puño y letra de mi dicho predecesor y rubricada por el, la diligencia y certificacion siguiente.

"Dn. Vicente Sebtn. Pintado Capitan de cavalleria de milicias y "segundo Agrimensor &a. Certifico: que fue medido y lindado a "favor de Dn. Juan Delassize, un terreno de diez mil arpanes planos, "medidos a la percha de Paris de diez y ocho pies de la misma ciu-"dad, contando cien perchas planas por arpan, segun costumbre "agraria de esta Provincia, cuyo terreno situado en el nuevo estable-"cimiento de Sta. Helena, entre el Rio del mismo nombre, ó Amit, y el "Arroyo de Sta. Rosalia vulgarmente llamado *Sandy Creek*, dista "lo mas Norte de el diez y ocho millas y quarto Inglesas, de la Linea "divisoria entre estos dominios de S. M. y los Estados Unidos de la "America, al sur de ella; y linda por la parte Septentional con "tierras de Dn. Armando Duplantier y otras baldias, por la meri-"dional con dichas de Dn. Juan Lynd y otras de Dn. Armando Du-"plantier, por la Oriental con las apeadas para Dn. Thomas Power "y con el Rio de Sta. Helena ó Amit, y por la occidental se termina "en la margen del Este del antedho. Arroyo Sta. Rosalia vulgar-"mente llamado Sandy Creek, lo que con mas claridad se demuestra "en el Plano que antecede, en el que se ve figurado el terreno con "las dimensiones de sus lados anotadas en perchas lineales, las direc-"ciones de los limites segun la Bruxula, la declinacion N. E. de esta, "los arboles y mojones que sirven de linderos y los demas confines "naturales y artificiales." "Los dhos. diez mil arpanes planos que "el interesado compra de la Rl. Hacienda, fueron mandados a medir "estimar y evaluar por auto del Sr. Intendente general con fha. trece

"Pintado." "Es copia del remitido con el memorial y decreto ori-"ginal mencionado, al interesado. Nva. Feliciana fha. ut supra." "Vicente Sebasn. Pintado."

Es copia del documento citado á que me referio. Y en virtud de decreto del Sr. Dn. Francisco Maximiliano De Sn. Maxent, Brigadier de los Rs. Extos. Coronel del Regimto. Infanteria de la Luisiana, Gobernador interino de esta Provincia, y subdo. de la Intendencia gral. de Rl. Hacienda en ella, fha. diez y ocho del que sige, doy esta en papel comun por no estar en practica el sellado, en Panzacola á los diez y nueve dias del mes de Noviembre de mil ochocientos diez y seis.

(Signed) VICENTE SEBASN. PINTADO.

[For Map see original, page 45.]

Pintado, Capitan de Infanteria de los Rs. Extos., Agrimensor general de la Florida occidental por S. M.

Certifico: quen en el Libro D. No. 4 de este Archivo de mi cargo, uno de los recibidos de mi predecesor Dn. Carlos Trudeau, que dió principio con el No. 1575 y finalizo con el No. 1737, al folio recto 125, y baxo el No. 1735, se halla un plano figurativo, del que es copia exacta el que precede, y a continuacion y hasta vuelta del mismo fol. 125, esta registrada del puño y letra de mi dicho predecesor y rubricada por el, la diligencia y certificacion siguiente.

"Dn. Vicente Sebtn. Pintado Capitan de cavalleria de milicias y "segundo Agrimensor &a. Certifico: que fue medido y lindado a "favor de Dn. Juan Delassize, un terreno de diez mil arpanes planos, "medidos a la percha de Paris de diez y ocho pies de la misma ciu-"dad, contando cien perchas planas por arpan, segun costumbre "agraria de esta Provincia, cuyo terreno situado en el nuevo estable-"cimiento de Sta. Helena, entre el Rio del mismo nombre, ó Amit, y el "Arroyo de Sta. Rosalia vulgarmente llamado *Sandy Creek*, dista "lo mas Norte de el diez y ocho millas y quarto Inglesas, de la Linea "divisoria entre estos dominios de S. M. y los Estados Unidos de la "America, al sur de ella; y linda por la parte Septentional con "tierras de Dn. Armando Duplantier y otras baldias, por la meri-"dional con dichas de Dn. Juan Lynd y otras de Dn. Armando Du-"plantier, por la Oriental con las apeadas para Dn. Thomas Power "y con el Rio de Sta. Helena ó Amit, y por la occidental se termina "en la margen del Este del antedho. Arroyo Sta. Rosalia vulgar-"mente llamado Sandy Creek, lo que con mas claridad se demuestra "en el Plano que antecede, en el que se ve figurado el terreno con "las dimensiones de sus lados anotadas en perchas lineales, las direc-"ciones de los limites segun la Bruxula, la declinacion N. E. de esta, "los arboles y mojones que sirven de linderos y los demas confines "naturales y artificiales." "Los dhos. diez mil arpanes planos que "el interesado compra de la Rl. Hacienda, fueron mandados a medir "estimar y evaluar por auto del Sr. Intendente general con fha. trece



"de Octubre del año proximo pasado. Y habiendo el Sor. Dn. Carlos "de Grand Pré coronel de los Rs. Exercitos, Gobernador de estos "Establecimientos y subdelegado de la Intendencia gral., nombrado "por peritos estimadores, por lo respectivo á la Rl. Hacienda, a Dn. "Antonio Gras y Dn. Valentin Thomas Dalton, y el apoderado del "interesado que lo es Dn. Samuel Fulton, nombrado por su parte á "Dn. Daniel Hiky y Dn. Huberto Rowell, estos procedieron al "avuluo y justi-precio con asistencia de los testigos nombrados Luis "Delate y Juan Poret, y estimaron los dichos diez mil arpanes a "razon de nueve sueldos por cada uno plano, lo que visto por dicho "Dn. Samuel Fulton, en nombre del interesado, se conforme y recibio "comprado dho. terreno en la forma que va dicha, y de el se dio por "entregado a toda su voluntad, y lo firmo con los estimadores y tes- "tigos, en el Puesto de Baton Rouge á los doce dias del mes de Marzo "de mil ochocientos y quatro años. (asi firmado) Samuel Fulton, "Vicente Sebasn. Pintado, Daniel Hicky, Hubert Rowell, Anto. "Gras, V. T. Dalton, Luis Delate, y Juan Poret." "Sentado en "este Libro en virtud del decreto del Sor. Intendte. gral. en fecha "dos de Mayo de mil ochocientos y quatro años." "Nueve Mayo "mil ochocientos quatro." Hay una Rubrica de Dn. Carlos Trudeau.

Es copia del Plano y Documento que se hallan registrados en el antedho. Libro, a los folios y numero ya citados, á que me refiero. Y en virtud de lo mandado por el Sor. Dn. Francisco Maximiliano de Sn. Maxent, Brigadier de los Rs. Exercitos, Coronel del Regimiento de Infanteria de la Luisiana, Gobernador y subdelegado de la Intendencia gral. de Rl. Hacienda de esta Provincia interinamente, por su decreto fha. de ayer. Doy esta con el Plano figurativo anexo y en papel comun por no estar en uso el sellado, en la Plaza de Panzacola a los diez y nueve dias del mes de Noviembre de mil ocho cientos y diez y seis años.

(Signed) VICENTE SEBASN. PINTADO.

St. Helena Land Office.

Recorded in the office of the Register and Receiver for the Western District in Lib: A No. 3 fol: 570 &c.

(Signed) FS. HERAULT, *Clk.*

[For Map see original, page 49.]

Dn. Vicente Sebastian Pintado, Capitan de Infanteria de los Rs. Exercitos, Agrimensor general de la Florida occidental por S. M.

Certifico: que en el Libro D No. 4 de este Archivo de mi cargo, uno de los recibidos de mi predecesor Dn. Carlos Trudeau, que principio con el No. 1575, y concluyo con el No. 1737, al fol. recto 124 y baxo los Nos. 1730, 1731, 1732, 1733, y 1734. Se hallan los planos figurativos, de que son copias exactas las que preceden, y a continuacion y hasta la vuelta del mismo fol 124—esta registrada del

Puño y letra de mi dicho predecesor y rubricada por el la diligencia y certificacion siguiente.

"Dn. Carlos Trudeau Agrimensor real y particular de la Pro-"vincia de la Luisiana, comisionado por el Sor. Intendente gral. para "el apeo y estimacion de las tierras concedidas a titulo de venta desde "el margen oriental del Rio Amit hasta el distrito de la Mobila &a." "Certifico: que fueron verificados, lindados y amojonados a favor "de Dn. Juan Delassize, quarenta mil arpanes planos de tierra, me-"didos á las percha de la ciudad de Paris de diez y ocho pies de Rey "lineales de la misma ciudad, contando cien perchas planas por "arpan plano, segun costumbre agraria en esta Provincia, dichos "quarenta mil arpanes medidos en cinco divisiones ó paños separados "en forma que un explicada, (a saber), No. 1." "Segun el Plano "No. 1, o 1730, seis mil ochocientos y ochenta arpanes planos, situ-"ados sobre el margen Izquierdo del Rio Tanchipaho, inmediato á "la linea de limites que separa los territorios de S. M. con el de los "Estados Unidos de America, lindando a la parte del Norte con la "linea de los treinta y un grador de Latitud Norte, a la parte del "sur, con tierra ocupada por el nombrado B. Linier, al este con tierra "vacante, y al Oeste con el mismo Rio Tanchipaho."

No. 2. "El plano No. 2 o 1731, de nueve mil doscientos noventa "y seis arpanes planas, situado sobre el margen Izquierdo del mismo "Rio Tanchipaho, a cinco millas al sur de la linea de limites de estos "dominios de S. M. con los Estados Unidos de America, lindando á "la parte, del Norte con un terreno ocupado por el nombrado H. "Jones, al sur y al este con tierras vacantes, y al oeste con el mis-"mo Rio Tanchipaho."

No. 3. "El plano No. 3, ó 1732 de ocho mil ciento setenta y seis "arpanes planos, situados la parte mas al Norte, á once millas y "quatro al sur de la linea de los treinta y un grados de latitud "Norte, linda por esta parte con tierra ya apeada a favor del in-"teresado, al sur y este con tierras vacantes, y al Oeste con el Rio "Tanchipaho.

No. 4. "El plano No. 4, ó 1733, de doce mil quinientos quarenta "y quatro arpanes planos, situados en el mismo margen izquierdo del "Rio Tanchipaho, la parte mas Norte a diez y siete millas de los "treinta y un grados de latitud Norte linda a esta parte con otro "terreno ya medido a favor del interesano, al sur y este con tierras "vacantes y al oeste con el antedicho Rio Tanchipaho."

No. 5. "El plano No. 5 ó 1734, de tres mil noventa y seis "arpanes, situados a la entrada del Rio izquierdo del Rio Chifunctć, "haciendo frente a la parte del sur al lago Pontchartrain, y lindados "á los demas lados con tierras vacantes, el todo demostrado en los "cinco planos antecedentes, cuyos forman el total de los antedhas. "quarenta mil arpanes planos de tierra, siendo los limites dispuesto "Norte y sur, con este y oeste del Globo, variacian de la aguja cor-"regida, cuya reconocimos estar de ocho grados diez minutos al "Nordeste, como esta figurado en los planos, asi como las dimen-

"siones, de los limites, los arboles y mojones que sirven de linderos, "y los demas confines naturales &a. Dos de Mayo de mil ochocientos "quatro"—Esta Rubricado de Dn. Carlos Trudeau.

Es copia de los Planos y documento que se hallan registrados en el antedho. Libro, á los folios y numeros ya citados, á que me refiero. Y en virtud de decreto del Sor. Dn. Francisco Maximiliano de Sn. Maxent, Brigadier de los Rs. Extos., coronel del Regimiento de Infanteria de la Luisiana, Gobernador interino de esta Provincia y subdelegado de la Intendencia gral. de Rl. Hacienda, fecha diez y ocho del presente, Doy esta, cun los planos figurativos anexos, en papel comun por no estar en practica el sellado, en Panzacola a veinte de Noviembre de mil ochocientos y diez y seis años.

(Signed) VICENTE SEBASN. PINTADO.

Panzacola 22 de Noviembre de 1816.

Entreguese los tres planos figurativos y documentos que los acompañan al agente de Dn. Juan Delassize para que se lo remita al parage de su residencia y obren en ellas los efectos a que se contrahe su instancia de 23 de Octubra ultimo que dirigio de la Nueva Orleans.

(Signed) FRANCO. MAXIMO DE SN. MAXENT.

STATE OF LOUISIANA,
Parish and City of New Orleans:

Be it known that on this nineteenth day of the month of August in the year of our Lord one thousand eight hundred and thirty-six & the sixty-first of the independence of the United states of America.

Before me Felix Grima, a notary public in & for the Parish & City at New Orleans, State of Louisiana, duly commissioned and sworn, dwelling in the said city of New Orleans.

Personally came and appeared Messieurs Louis de Feriet, Louis Seré, Antoine Cruzat and Vicente Ramos, all three residing in the said city of New Orleans, and well known to me notary.

And the said appearers having been duly sworn according to law by me the said notary, did separately declare and say, that they are well acquainted with the signatures of Vicente Sebastien Pintado of Francisco Gutierres de Arroyo and of Francisco Maximilien de Sn. Maxent—and the said appearers having examined the signatures affixed to the Spanish documents exhibited to them and to which the present certificate is annexed did further declare and say that the said signatures are the true and genuine signatures of the said Vicente Sebastien Pintado, Francisco Gutierres de Arroyo and of Francisco Maximilien de Sn. Maxent.

In faith whereof the said appearers have hereunto set their hands.

Sworn to and subscribed before me notary.

(Signed) LOUIS DE FEVRIET,
VINCENT RAMOS,
ANTE. CRUZAT,
LOUIS SERÉ.

I the undersigned do hereby certify that the foregoing declaration has been signed by the aforenamed appearers Louis de Fevriet, Louis Seré Antoine Cruzat and Vicente Ramos: In testimony whereof I have hereunto set my name and affixed the impress of my seal of office at the city of New Orleans this nineteenth day of August eighteen hundred and thirty-six.

[SEAL.] (Signed) FX. GRIMA
Not. Pub.

UNITED STATES OF AMERICA,
State of Louisiana:

By Edward D. White, Governor of the State of Louisiana.

These are to certify, that Felix Grima, whose name is subscribed to the instrument of writing herein annexed, is and was, at the time of signing the same, a notary public, in and for the Parish and city of New Orleans; and that all his official acts as such, are entitled to full faith and credit.

Given at New Orleans, under my hand & seal of the State, this third day of September one thousand eight hundred and thirty-six and of the independence of the United States, the sixty-first.

[SEAL.] (Signed) E. D. WHITE,

By the Governor,
(Signed) MARTIN BLACHE,
Secretary of State.

Translation of part of the foregoing document marked "A No. 2" being that of the certificate accompanying plan No. 1735 of 10,000 arpents &c. to Juan Delassize, the original is already copied from page 45 to page 48 of this transcript.

Sebastien Pintado, captain of infantry of the royal armies, surveyor general of West Florida &c.

I certify that in Book D No. 4 of this Archive under my charge, one of those received from my predecessor Don Carlos Trudeau, commencing at No. 1575 and ending at No. 1737, at folio 125 on the right side & under No. 1735 is a figurative plan of which the foregoing is an exact copy, & immediately after and to the other side of said folio 125 is registered in the handwriting of my said

predecessor the following statement & certificate to which his flourish is annexed.

Don Vincente Sebastien Pintado, captain of cavalry of militia, & deputy surveyor &c.—I certify that there has been measured and the boundaries defined in favor of Don Juan Delassize, a tract of land of ten thousand superficial arpents, measured by the perch of Paris of 18 feet of said city, counting 100 superficial perches to the arpent, agreeably to the agrarian custom of this province, which tract is situated in the new establishment of St. Helena, between the river of said name or Amite & the creek of St. Rosalie commonly called Sandy Creek and is distant at its most northern part 18¼ English miles from the boundary line between the domains of his majesty and those of the United States of America, and to the south of said line, bounded on the north by lands of Don Armando Duplantier & others not cultivated, on the south by lands of Don Juan Lynd & other lands of Don Armando Duplantier, on the east by lands surveyed for Don Thomas Power & the River St. Helena or Amite, and on the west by the east margin of the aforesaid creek St. Rosalie commonly called Sandy Creek, all which is more clearly shown in the plan which precedes in which plan said tract is represented with the dimensions of its sides noted in lineal perches, the direction of the boundaries by compass, the variation of which is N. E. also the trees and mounds marking the limits & other natural and artificial limits. Said 10,000 superficial arpents of land which the party in interest did buy from the royal treasury were ordered to be measured and appraised in virtue of a decree from the Intendant General under date of 13th of October last, and Don Carlos de Grand pré, colonel of the royal armies, governor of this post & subdelegate of the royal treasury having appointed as appraisers on behalf of the royal treasury Don Antonio Gras & Don Thomas Valentine Dalton, and Don S. Fulton the agent of the party in interest having appointed on behalf of the said party Don Daniel Hicky & Don Huberto Powell, said persons with Don Louis Delate & Juan Poiret as witnesses proceeded to value the land & valued the said 10,000 arpents of land at the rate of nine cents pr. superficial arpent which valuation having been submitted to Don Samuel Fulton was accepted by him on behalf of the party in interest and the said tract considered bought as hereabove expressed, acknowledging the delivery thereof to his satisfaction and the said agent did sign these presents with the appraisers and witnesses in the post of Baton Rouge on the 12th day of the month of March 1804 (thus signed) Samuel Fulton, Vincente Sebastien Pintado, Daniel Hicky, Hubert Powell, Antonio Gras, V. T. Fulton, Louis Delate & Juan Poiret. Recorded in this book in virtue of the decree of the Intendant General, under date of the second of May 1804.

9 May 1804 (here is the flourish of Don Carlos Trudeau).

The above is a copy of the plan & description which are registered

in the above named book at the folios & number mentioned, to which I refer, & in virtue of what has been ordered by his excellency Don Francisco Maximilien de St. Maxent, brigadier of the royal armies, colonel of the regiment of infantry of Louisiana, governor & sub-delegate of the general intendancy of the royal treasury of this province in his decree under date of yesterday. I give these presents and the figurative plan here annexed on common paper, stamped paper not being in use. In Pensacola on the 19th day of November 1816.

VINCENT SEBASTIEN PINTADO.

7°. The plaintiff offered in evidence the following depositions of Louis Bouligny, Felix Garcia, and Bernard Marigny, in relation to the aforegoing documents marked "A. No. 1 & A. No. 2:" said depositions are of record in the case of the heirs of Delassize vs. The United States, No. 116 of the docket, and are as follows:

(*Deposition of Louis Bouligny.*)

J. DELASSIZE
vs.
THE UNITED STATES. } No. 116.

In this cause the plaintiffs represented by their counsel, Daniels & Stevens Esqrs. and the defendants by the District Attorney, appeared before me the undersigned commissioner, when the plaintiffs introduced a witness, whose testimony I proceeded to take to be used on the trial of said cause.

"Louis Bouligny witness for plaintiffs being duly sworn states—upon being shewn the document marked A. No. 1, that he recognizes the signatures thereto of Francisco Gutierres de Arroyo, & Francisco Maximiliano de St. Maxent, as being the proper signatures, and the hand writing of the said de Arroyo, & the said de St. Maxent. De St. Maxent was the colonel of the regiment of Louisiana; and in the absence of the governor he performed the duties of that office. De Arroyo was an officer in the office of the intendancy.—Both of these said individuals went to Pensacola after the change of the government.—Witness states upon looking at the document, that a matter presents itself to his mind, which he thinks proper to mention, "to wit" that it appears in the said document that said St. Maxent subscribed himself as governor, and sub-delegate ad interim of the royal domain of this province "witness knows that he possessed the powers of governor in the absence of that functionary, but does not know of his having had the powers of sub-delegate ad interim of the royal domain.

"Witness being shewn the document marked A. No. 2, states that he recognizes the writing upon said document on page marked 5, 6, 7 & 8 to be the hand-writing of Vincente Sebastian Pintado and the signature thereto to be the genuine signature of said Pintado

—Pintado filled the office of surveyor general of West Florida in the place of Trudeau: that he was the deputy of Trudeau in Louisiana. States that Juan Delassize was a creole of Louisiana, and resided therein at the time of the grant.

"*Cross Examined.*"

States that the marks above the signature of St. Maxent in document A. No. 1 are abreviations of the Spanish words, "*visto bueno,*" meaning approved. Being asked what means he has of ascertaining the hand-writing of St. Maxent, says that he served in the same regiment with him—that during the time of serving with him, witness has often seen St. Maxent write. Has received letters from St. Maxent as late as 1818. As to the signature of St. Maxent witness entertains no doubt whatever. The title of St. Maxent's office is not attached to his signature in said document A. No. 1—the chief officers only wrote "*Buena Vista*" when affixing his signature to documents. Witness states that in the year 1816, he witness was not at Pensacola and does not know what official situation the said Arroyo held there.

Pensacola was in West Florida. In 1816 Morales the intendant of West Florida left Pensacola to go to Porto Rico. In June 1816 witness saw Morales in Havana: he had been there for some time.

Witness states that Pintado was the successor in office of Trudeau.

(Signed) L. BOULIGNY.

"I, N. R. Jennings duly appointed commissioner to take testimony in land causes do certify that the foregoing is the deposition of Louis Bouligny, witness introduced by plaintiffs; that the same was read over to the witness, and by him signed before me. As witness my hand and seal this 21st of April 1847.

[SEAL.] (Signed) N. R. JENNINGS,
Comr.

(*Deposition of Felix Garcia.*)

No. 116 { J. DELASSISE vs. THE UNITED STATES. } May 7th, 1847.

The plaintiffs and defendants in the above entitled suit, this day appeared before me the undersigned commissioner, represented by their counsel Daniels and Stevens Esqrs: for the plffs. and the district attorney for the defendants, when I proceeded to take the depositions of certain witnesses for plaintiffs to be used on the trial of said cause.

"Felix Garcia, witness for plaintiffs being duly sworn states, that being shewn the document marked A. No. 1, he recognizes thereto as affixed to page 2 of said document the signatures of Francesco

Maximilian de St. Maxent, and Francesco Gutierrez de Arroyo, as being the true and genuine signatures of the said individuals.

"Witness was at Pensacola in the year 1816, when the aforesaid St. Maxent filled the office of governor pro-tem. of West Florida. And during the same year Arroyo discharged the duties of secretary at Pensacola, and he was an officer of the royal hacienda. These individuals were in the open, and public discharge of the duties of their respective offices at the time mentioned. The observations immediately above the signature of St. Maxent signify that '*it is approved.*'"

"*Cross-examined.*"

"States that during the year 1816 he was at Pensacola from the latter end of May until the commencement of November—at that time there was a regiment in Pensacola, called the regiment of Louisiana: and in the year 1817 deponent became a cadet in that regiment, in which he served a part of two years: and St. Maxent was the colonel of that regiment.

(Signed) FELIX GARCIA.

I. N. R. Jennings commissioner in land causes to take testimony do certify that the foregoing is the true deposition of Felix Garcia the witness introduced by plaintiffs: that the same was subscribed by him before me.

As witness my hand and seal this 7th day of May, A. D. 1847.

[SEAL.] (Signed) N. R. JENNINGS, *Comr.*

Deposition of Bernard Marigny.

DELASSIZE vs. THE UNITED STATES. } No. 116

The plaintiffs in the above entitled cause represented by Daniels Esq. and the United States represented by Thomas J. Durant Esq. appeared before me the undersigned commissioner this day May 5th 1848, at 5 o'clock P. M. to take the testimony of a witness introduced by the plaintiffs to be used on the trial of said cause.

"Bernard Marigny witness for the plffs. being duly sworn states, that being shewn document marked A. No. 1, he recognizes the signatures thereto of Francesco Maximilien de St. Maxent, and Francesco Gutierrez de Arroyo, as being the hand-writing and genuine signatures of St. Maxent, and Gutierrez. Deponent has seen them often write: the document A. No. 1 sets forth and explains the offices held by the said persons.

"Witness knew the grantee Juan Delassize, mentioned in said document; that he was an officer in the Spanish army at the time of the cession of Louisiana to the United States; that he was born in

Louisiana, and continually resided there and died there; that he lived to an old age, and died when about seventy-four years old.

(Signed) BERNARD MARIGNY.

I. N. R. Jennings duly appointed commissioner do certify that the foregoing is the true deposition of Bernard Marigny as taken down by me in writing in answer to question propounded by the plaintiffs.

I further certify that the said deposition after being carefully read over to the witness was by him subscribed before me.

In witness whereof I hereunto set my hand and seal this 5th day of May, A. D. 1848.

[SEAL.] (Signed) N. R. JENNINGS, *Comr.*

And afterwards at the May term of this court, to wit on the 26th of May, 1849: The following opinion and judgment were rendered and entered of record.

JOHN MCDONOGH
vs. } No. 26
THE UNITED STATES.

The court this day rendered its opinion and judgment herein as follows.

(*Opinion.*) This court has no power, under the provisions of the act of 1824, revived by that of 1844, to confirm the title of the petitioner to the land claimed in his petition.

In the case of the heirs of John Lynd, and also in the case of the heirs of De Armes vs. the United States, I have expressly decided that I could only take cognizance of Grants, warrants, or orders of survey, made prior to the 10th of March 1804. The grant before the court was not made by Morales until the 16th of May 1804, and according to the view I have repeatedly taken of the document adduced in support of title there is no legal evidence in this case of any grant whatever. A copy of the *title in form* signed by Morales is introduced in evidence; but it is certified by a Spanish officer who under the restrictions imposed upon this court by the act of 1824, cannot be recognized as possessing at the date of his certificate, any legal authority to give it. Had the original order of survey been produced, it might have obviated the difficulty here suggested. But in the absence of all proof of legitimate action on the part of the Spanish authorities, prior to the 10th of March 1804, establishing an inchoate right in the grantee to the lands in question, & fixing with reasonable certainty the locality of those lands, I am bound for the reasons set forth in the opinion rendered in the case of the heirs of *Lynd vs. the United States*, to reject the claim of the petitioner.

It is therefore ordered, adjudged and decreed that the petition in this case be dismissed with costs.

And thereupon was entered of record on the minutes the following Decree; duly engrossed and signed on the 31st May succeeding:

JOHN McDONOGH
vs.
THE UNITED STATES. } No. 26

(*Decree.*) This cause was regularly opened on the 9th of March last (at the February Term) and evidence offered, and submitted after argument of counsel, on the 16th of the same month; and the court having duly considered the same, doth now, for reasons of record herein and also set forth at length in the case of the heirs of John Lynd against the United States, order, adjudge, and decree that Plaintiff's Petition be dismissed with costs and judgment rendered in favor of the Defendants.

Judgment rendered May 26th 1849.

Judgment signed May 31st 1849.

[SEAL.] (Signed) THEO. H. McCALEB,
U. S. Judge.

And further at the same term to wit, on the 9th of June 1849, the following motion & order of appeal were entered of record in this case.

JOHN McDONOGH
vs.
THE UNITED STATES. } No. 26.

On motion of Alfred Hennen, esq: of counsel for the Plaintiff in this cause; It is ordered by the court that from the judgment rendered in this cause at the present term, to wit: on the 26th May last past, against the said plaintiff, there be an appeal allowed the said plaintiff on his giving bond and security in the sum of five hundred dollars to be approved by this court; said appeal to be returnable to the Supreme Court of the United States at the next Term thereof after the date of this order.

And further at the same term, to wit on the 12th June 1849, the following bond of appeal was filed of record and thereupon was duly recorded.

Know all men by these presents that we John McDonogh & Alfred Hennen are held and firmly bound jointly and severally unto the United States of America in the sum of five hundred dollars, to be paid to the said U. States; for which payment we bind ourselves, our heirs, executors and assigns, firmly by these presents. Sealed with our seals and dated this twelfth day of June 1849.

Whereas the above bound John McDonogh has appealed from a judgment pronounced against him in the District Court of the United

States for the Eastern District of Louisiana sitting in equity on a claim for lands under the act of Congress, the number of the suit on the docket being twenty-six.

Now the condition of this obligation is such that if the above bound John McDonogh will well and truly pay to the United States all the costs of suit which may accrue in said suit, and shall prosecute with effect his said appeal then this obligation to be void, otherwise to remain in full effect.

(Signed) JOHN McDONOGH,
By his Att'y.
[SEAL.] ALFRED HENNEN.
[SEAL.] (Signed) ALFRED HENNEN.

Approved, (Signed) THEO. H. McCALEB,
U. S. Judge.

FINIS.

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

I, Needler R. Jennings, Clerk of the District Court of the United States sitting at New Orleans in and for said district, do hereby certify, that the foregoing sixty-five folios (including the three plans in folios 43, 45 & 49) and thirteen lines (66th) contain and form a true, faithful, correct and complete transcript of all the proceedings, process, pleadings, documents, and other matters on the file and of record in a certain cause in chancery, wherein John McDonogh (claim C of $\frac{1}{3}$ of 40,000 arp's.) is plaintiff and the United States of America are defendants. No. 26 of the land docket of said court.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this fifteenth day of September, one thousand eight hundred and forty-nine, and the 74th year of American Independence.

[SEAL.] N. R. JENNINGS,
Clerk U. S. District Court, Eastern Dist. of Louisiana.

I, Theodore H. McCaleb, Judge of the District Court of the United States for the Eastern District of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

Witness my hand and seal at New Orleans, this 25th day of September, A.D. 1849.

[SEAL.] THEO. H. McCALEB.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the United States, through their Attorney, Logan Hunton, Esq., for the Eastern District of Louisiana, greeting:—

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an Order of Appeal granted, on the ninth day of June, 1849, by the District Court of the United States in and for the Eastern District of Louisiana, in a certain cause in Chancery, (under the Acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 26) *John McDonogh* vs. *The United States*, wherein the said John McDonogh is Appellant, and you are Appellees, to show cause, if any there be, why the judgment rendered against the Appellant, as in the said Order of Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

(Claim C $\frac{1}{3}$ of 40,000 arp's.)

Witness hereto my hand, and the Seal of the said Court, at the city of New Orleans, this twenty-fourth day of September, A.D. 1849.

[SEAL.] THEO. H. McCALEB,
Judge of U. S. District Court Eastern District of Louisiana.
Attest: ROBR. M. LUSHER,
Dy. Clerk.

EASTERN DISTRICT OF LOUISIANA,
United States District Court:

No. 26.

Origl. { JOHN McDONOGH vs. THE UNITED STATES. } Citation of Appeal.

MARSHAL'S RETURN.

Recd. October 9, 1849, and on the 29th Octr. 1849, served a copy of the within citation of appeal on Logan Hunton, Esq., U. S. Dist. Att'y, by handing the same to him in person at New Orleans.
Returned same day.

N. W. BUTLER,
Dy. U. S. Marshal East. Dist. of La.

Retn. registered, Oct. 29, 1849.

ROBR. M. LUSHER,
Dy. Clerk.

2/.

SUPREME COURT OF THE UNITED STATES.

No. 205.

JOHN McDONOGH, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT, U. S., FOR THE EASTERN DISTRICT OF LOUISIANA.

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Gideon, printer.

UNITED STATES DISTRICT COURT,
Eastern district of Louisiana.

Sitting in chancery.

JOHN MCDONOGH
vs.
THE UNITED STATES. } No. 27.

Be it remembered, that heretofore, to wit, on the ninth day of June, being the May term, A. D. 1846, of the said court, John McDonogh, by his solicitor, C. Roselius, esq., came into the office of the clerk of said court, and filed his petition, which is in the words and figures following, to wit:

To the honorable Theodore H. McCaleb, judge of the United States district court for the district of Louisiana.

The petition of John McDonogh, residing in the parish of Orleans, in the State of Louisiana, respectfully represents, that on or about the 5th March, 1806, your petitioner and the late Shepherd Brown presented a joint petition to Don Thomas Estevan, then the commandant of the Amite district, in the province of West Florida, praying that a tract of land might be granted to them, consisting of a cypress forest, comprised within the lines of the river Amite, (then called St. Bernardo,) Lake Maurepas, the Tickfaw river, and a straight line running from river to river, as will more fully appear; together with other necessary particulars, by reference to the plan annexed to and made part of this petition, marked D No. 1.

And your petitioner further represents, that the prayer of said petition was duly granted, and the before described tract of land was conceded to your petitioner and said Shepherd Brown; that although the title to said land was inchoate, yet it would have been completed, under and in conformity to the laws, usages, and customs of the Spanish government, under which it originated, had not the sovereignty of the country been afterwards transferred to the United States; that said title was duly recorded in the office of the clerk to the commissioners of land claims west of Pearl river and east of the Mississippi, as will also more fully appear, together with other necessary particulars by reference to the said document marked D No. 1, made part of this petition; that the metes and bounds of said land, its location and description, appears more particularly by the plan already referred to.

And your petitioner further represents, that on the death of said Shepherd Brown, his partner in business, and on the settlement of said partnership with the heirs and legal representatives of the deceased, your petitioner became the sole and exclusive owner of said tract of land, as will be proved in due time; that his title to said tract of land was duly presented to and proved before the board of land commission-

ers, who recognised and admitted the validity of said title, but only to the extent of twelve hundred and eighty acres; that he has always insisted he was entitled to the whole tract of land comprised within the before mentioned boundaries, and has in no manner waived any of his rights thereto; that the whole of said tract of land, or the greater part thereof, has either been sold by the United States, or confirmed to actual settlers; that he cannot and does not contest the title of those who are in possession of said land under the sales or confirmations aforesaid.

Wherefore, your petitioner respectfully prays, that the district attorney of the United States for the eastern district of Louisiana may be cited to appear and answer this petition; that the validity of the title of your petitioner to the before described tract of land be inquired into and decided by the court; that, after due proceedings had, judgment be rendered in favor of your petitioner, decreeing and recognising that the title of your petitioner to the said tract of land is good and valid, and that your petitioner is entitled to enter a like quantity of land as is embraced within the aforesaid limits, in lieu of such as has been sold or confirmed as aforesaid, according to the provisions of the act of Congress in such case made and provided; and your petitioner prays for all such other and further aid, relief, and remedy, as the nature of his case may require and to law and equity appertain. And he will ever pray, &c., &c.

(Signed,) C. ROSELIUS.

John McDonogh, being duly sworn, deposes and says, that all the facts and allegations in the foregoing petition contained are correct and true, according to the best of his knowledge and belief.

(Signed,) JOHN McDONOGH.

Sworn to and subscribed before me, this 9th of June, 1846.

(Signed,) N. R. JENNINGS, *Clk.*

Document marked "D No. 1," made part of the foregoing petition, purporting to be the original grant, by Don Thomas Estevan to McDonogh and Shepherd Brown, of 2,700 arpents of land.

SOR. COMANDANTE:

Don Juan McDonogh y Don Shepherd Brown, con el debido respeto dicen que estando en posession de las tierras cultivables, situadas entre los rios San Bernardo y Tickfaw, sobre las que desean empezar una hacienda, previen gran inconveniente en hacer las barreras, y otras mexoras por la falta de cipres necesarias al efecto, los exponentes, añadar que la porcion de cipriera que esta entre los dhõs rios y el Lago Maurepas, y la linea de limite de los exponentes esta di tal manera situada, que no puede ser util in para establecimento, in para el cultiva, y muy retirada para ser provechosa a qualquiera otra establecimiento. En su consequencia suplican a V. se sirva concederles la cipriera comprehendida en los expresados limites, que contiene la cantidad de

como dos mil setecientos arpanes de tierra de superficie, como a parecera mas ampliamente delplano anexo.

[For diagram see original.]

DISTRITO DE AMIT, 5 *de Marzo de* 1806.

(Signed) JUAN McDONOGH y SHEPHERD BROWN.

A Don THOMAS ESTEVAN.

RIVERA AMY, 5 *de Marzo de* 1806.

Como lo pide con obligacion de presentarse al señor intendente para obtener los titulos en forma.

(Signed) THOMAS ESTEVAN.

Louisiana.—Recorded in the office of the clerk to the commissioner of land claims west of Pearl river, and east of the Mississippi, in lib. F, No. 1, fol. 417.

(Signed) CHARLES S. COSBY, *Cl'k.*

Translation of document marked "D" No. 1.

Sor. commandant: Mr. John McDonogh and Mr. Shepherd Brown, do say with due respect, that being in possession of the cultivable lands situated between the banks of the rivers St. Bernardo and Tickfaw, upon which they wish to begin a plantation, they foresee great inconveniencies in making the rails and other improvements on account of the want of cypress necessary to the purpose. Deponents further say, that the portion of cypress forest situated between said rivers, and the lake Maurepas, and the line of boundary of deponents, is in such manner situated that it cannot be useful either for establishments nor for cultivation, and too far away to be useful to any other establishments; in consequence of which they beg of you to grant them the cypress forest comprised in those expressed boundaries, which consists of about 2,700 arpents of superficial land, as is more amply shown by the annexed plan.

(For the plan see the preceding page.)

DISTRICT OF AMIT, *March 5th*, 1806.

JOHN McDONOGH & SHEPHERD BROWN.

To Don THOMAS ESTEVAN.

RIVER AMITE, *March 5th*, 1806.

The foregoing request is hereby granted as prayed for, with the condition that the petitioners present themselves to his excellency the Intendant, to obtain the title in due form.

(Signed) THOMAS ESTEVAN.

No 25. pa 4—


Mc Donogh y Brown
Cypriera
9700 Arpanes
R. Tinaja
R. Pitalbani
Lago. Maracaibo

Louisiana.—Recorded in the office of the clerk to the commissioner of land claims west of Pearl, and east of the Mississippi, in lib. F, No. 1, fol. 417.

(Signed) CHARLES S. COSBY, *Cl'k.*

And further, at the same term, to wit, on the 10th of June, 1846, the following citation was issued from the clerk's office in this case:

United States district court, sitting in and for the district of Louisiana; to the marshal for the district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon S. W. Downs, U. S. district attorney, to appear before the honorable judge of the district court of the United States, sitting in and for the district of Louisiana, at a district court to be holden at New Orleans, on the first Monday of July, 1846, then and there to answer a petition in chancery, filed against the United States, wherein John McDonogh is petitioner, and the United States is defendant.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable T. H. McCaleb, judge, this 10th day of June, New Orleans, 1846, and 70th year of American independence.

(Signed) N. R. JENNINGS, *Clerk*, [SEAL.]
By L. E. SIMONDS, *Deputy clerk.*

MEM. The defendant is to enter an appearance in the above cause in the clerk's office, on or before the first Monday of July, 1846, otherwise the petition may be taken pro confesso.

Marshal's return on the foregoing citation.

Received this 11th day of June, 1846, and on the same day served copies of the within citation, plaintiff's petition and documents annexed, on the within S. W. Downs, esq., U. S. district attorney, in the manner following, to wit, in person, at New Orleans. Returned the same day. (Signed) W. F. WAGNER,
U. S. Marshal.

And further, at the same term, to wit, on the 5th of November, 1846, the defendants appeared and filed the following answer.

In the district court of the United States, for the district of Lousiana.

JOHN MCDONOGH
vs. } 27.
THE UNITED STATES.

The defendants now come, and for answer deny all and singular the facts and allegations of plaintiff's petition.

Wherefore they pray that said petition may be dismissed at plaintiff's costs. (Signed) THOMAS J. DURANT, *Att'y.*

And afterwards, at the February term, to wit, on the 12th of February, 1847, the following entry was made of record in this case:

JOHN McDONOGH
vs.
THE UNITED STATES. } 27.

This cause being this day fixed for trial, was, upon motion of the United States district attorney, the court being engaged in other business, continued until further notice.

And afterwards, at the February term, to wit, on the 9th of March, 1849, the plaintiff appeared and filed the following replication:

District court, U. S., Louisiana district.

JOHN McDONOGH
vs.
THE UNITED STATES. } No. 27.

The replication of John McDonogh, complainant, to the answer of the United States, defendant.

This repliant, reserving all benefit of exception, &c., saith that he doth maintain, and will prove, his bill to be true and sufficient in law, and that the answer of the defendant is insufficient, as this honorable court may require, and prays as he hath prayed in his bill.

(Signed) A. HENNEN & C. ROSELIUS,
Solicitors.

And further, at the same term and on the same day, the following entry was made of record:

JOHN McDONOGH
vs.
THE UNITED STATES. } 27.

This cause was taken up for hearing, Hennen & Roselius, esqs., solicitors for complainant, and the U. S. district attorney for the defendants, present. Evidence was adduced and the argument of parties opened; when the further hearing thereof was continued until to-morrow, the 10th instant.

Evidence offered by the complainant.

1st. The plaintiff offered in evidence document marked "D No. 1," already copied from page 4 to page 6 of this transcript.

Said document was admitted by the court, subject to the exceptions raised by the defendants as to its admissibility as evidence.

2d. The plaintiff offered in evidence the deposition of Louis Bouligny, as to the signature to document D No. 1, which is as follows, to wit:

JOHN McDONOGH
vs.
THE UNITED STATES. } 27.

In open court.

Louis Bouligny, esq., sworn, being shewn document D No. 1, title for 2,700 arpens, filed herein on the 9th June, 1846, deposes, that the order on the reverse page thereof is entirely in the handwriting of Thomas Estevan, whose signature thereto is also his genuine signature. Thomas Estevan was well known to witness; his handwriting is very familiar to him; Estevan was commandant at the post of St. Helena, at the date of the order thus signed by him.

No cross examination.

(Signed) L. BOULIGNY.

Attest: (Signed) ROBT. M. LUSHER,
Deputy Clerk.

And further, at the same term, to wit, on the 10th of March, 1849, the following entry was made of record:

JOHN McDONOGH
vs. } 27.
THE UNITED STATES.

The hearing of this cause was to-day resumed; A. Hennen, esq., appearing for the complainant, and the U. S. district attorney for the defendants. Additional evidence was brought to the notice of the court, and the argument having been concluded, the case was thereupon taken under consideration.

(*Additional evidence offered by the complainant.*)

3d. The plaintiff offered in evidence a certificate of the register and receiver of the land office, dated Sept. 9th, 1830.

Brown and McDonogh, certificate No. 91, dated 9th September, 1830.

LAND OFFICE, ST. HELENA, *9th September, A. D.* 1830.

In pursuance of an act of Congress passed on the 3d day of March, A. D. 1819, entitled an "act for adjusting claims to lands, and establishing land offices in the district east of the island of New Orleans," we hereby certify, that the claim No. 178, on the report of the commissioner, letter D, claimed by Brown and McDonogh, original claimant Brown and McDonogh, is confirmed as a donation claim, and entitled to a patent for twelve hundred and eighty acres, claimed by virtue of a commission to settle, granted to the said Brown and McDonogh by Thos. Estevan, on the 5th day of March, A. D. 1806.

Given under our hands this 9th day of September, A. D. 1830.

(Signed) THOS. GREEN DAVIDSON, *Register.*
A. G. PENN, *Receiver.*

PRINCIPAL DEPUTY SURVEYOR'S OFFICE,
Baton Rouge, 10th March, 1830.

I certify the within to be a true copy of the original certificate now on file in this office.

(Signed) WM. BROWN,
Principal deputy surveyor.

4th. The plaintiff offered in evidence the register's and receiver's order of survey, dated 9th of September, 1830.

Brown and McDonogh, certificate No. 91, dated 9th September, 1830.

LAND OFFICE, ST. HELENA,
September 9th, 1830.

Brown and McDonogh claim a tract of land situate in the parish of St. Helena, in virtue of certificate No. 91, dated as above, signed by Thomas G. Davidson, register, and A. G. Penn, receiver; and it appearing that this claim does not clash with other individual claims, it is therefore ordered, that the same be surveyed in such shape and form as to inclose twelve hundred and eighty acres, confined to such limits and restriction as is required by law.

Given under our hands at St. Helena court-house, this 9th day of September, A. D. 1830.

(Signed) THOS. GREEN DAVIDSON,
Register.
A. G. PENN, *Receiver.*

PRINCIPAL DEPUTY SURVEYOR'S OFFICE,
Baton Rogue, 10*th March*, 1831.

I certify the within order of survey to be a true copy of the original order of survey now on file in this office.

(Signed) WM. BROWN,
Principal deputy surveyor.

And afterwards, at the May term, to wit, on the 26th of May, 1849, the following opinion and judgment were rendered and entered of record:

JOHN MCDONOGH
vs. } 27.
THE UNITED STATES.

The court this day rendered its opinion and judgment herein as follows:

Opinion.

The petitioner is one of the original grantees of the land claimed in in this petition. The genuiness of the documents introduced in evidence is not contested, but it is perfectly clear that this court has no power, under the act of 1824, to recognise grants made by the Spanish authorities after the 10th of March, 1804. The petition of the grantees, soliciting the grant of the lands in controversy, was signed on the 5th of March, 1806. On the same day the following order was given by Estevan, the commandant of the post of St. Helena: "River Amite, March 5th, 1806. The foregoing request is hereby granted as prayed for, with the condition that the petitioners present themselves to his excellency the Intendant, to obtain the title in due form." It does not appear that a title in form ever was obtained from the intendency, the legally constituted tribunal authorized to grant it, at a time

when the authorities of Spain were empowered to dispose of lands in the district of country where the land now claimed is situated. But even if a title in form had been granted by the Intendant, it could not avail the petitioner, inasmuch as, in accordance with the petition of the grantees, it would necessarily have been of a date subsequent to the 10th of March, 1804.

For the reasons already given in various cases, I am compelled to reject this claim.

It is therefore ordered, adjudged, and decreed, that the petition in this case be dismissed with costs.

And thereupon the following decree was entered of record on the minutes, and duly engrossed and signed on the 31st May succeeding:

JOHN MCDONOGH
vs.
THE UNITED STATES.

Decree.

This cause was regularly opened on the 9th of March last, at the February term of this court; and evidence having been adduced, and argument heard, was, on the 10th of March, submitted to the court. And the court being of opinion that the plaintiff is not, under the act of 1824, entitled to the relief prayed for by him, it is thereupon, for reasons of record, ordered, adjudged, and decreed, that his petition be dismissed with costs, and judgment entered up for defendants.

Judgment rendered, May 26th, 1849.
Judgment signed, May 31st, 1849.

(Signed) THEO. H. McCALEB, [L. S.]
U. S. judge.

And further, at the same term, to wit, on the 9th of June, 1849, the following motion and order of appeal were entered of record:

JOHN MCDONOGH
vs.
THE UNITED STATES. } 27.

On motion of Alfred Henning, esq., of counsel for the plaintiff in this cause, it is ordered by the court that, from the judgment rendered herein at the present term, to wit, on the 26th of May last past, against the said plaintiff, there be an appeal allowed the said plaintiff, on his giving bond and security in the sum of five hundred dollars, to be approved by this court; said appeal to be returned to the Supreme Court of the United States, at the next term thereof, after the date of this order.

And further, at the same term, to wit, on the 12th of June, 1849, the following bond of appeal was filed of record, and thereupon was duly recorded:

Know all men by these presents, that we, John McDonogh and Alfred Hennen, are held and firmly bound, jointly and severally, unto

the United States of America, in the sum of five hundred dollars, to be paid to the said United States; for which payment we bind ourselves, our heirs, executors, and assigns, firmly by these presents. Sealed with our seals, and dated this 12th day of June, A. D. 1849.

Whereas the above bound John McDonogh has appealed from a judgment pronounced against him in the district court of the United States, for the eastern district of Louisiana, sitting in equity, on a claim for lands under the act of Congress, the number of the suit on the docket being twenty-seven.

Now, the condition of this obligation is such, that if the above bound John McDonogh will well and truly pay to the United States all the costs of suit which may accrue in said suit, and shall prosecute with effect his said appeal, then this obligation to be void, otherwise to remain in full effect.

(Signed) JOHN McDONOGH,
By his attorney, ALFRED HENNEN. [SEAL.]
ALFRED HENNEN. [SEAL.]

Approved.

(Signed) THEO. H. McCALEB,
U. S. Judge.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing fifteen pages or folios and (16) nine lines contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein John McDonogh (claim D, of 2,700 arpens) is plaintiff, and the United States of America are defendants, No. 27 of the land docket of said court.

In testimony whereof I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this fifteenth day of September, one thousand eight hundred and forty-nine, and the 74th year of American independence.

N. R. JENNINGS,
Clk., U. S. district court, eastern district of La.

I, Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

In witness whereof I hereunto set my hand and seal this 24th day of September, A. D. 1849.

THEO. H. McCALEB. [SEAL.]

2 6.

The President of the United States of America, to the United States, through their attorney, Logan Hunton, esquire, for the eastern district of Louisiana, greeting:

You are hereby cited and admonished to be and appear at a supreme court of the United States, to be holden at the city of Washington, on the first Monday of December next, pursuant to an order of appeal, granted on the 9th day of June, 1849, by the district court of the United States, in and for the eastern district of Louisiana, in a certain cause in chancery, (under the acts approved May 26th, 1824, and June 17th, 1844,) entitled (No. 27) John McDonogh vs. the United States, wherein the said John McDonogh is appellant, and you are appellees, to show cause, if any there be, why the judgment rendered against the appellant, as in the said order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

(Claim D, of 2,700 arpens.)

Witness hereto my hand, and the seal of the said court, at the city of New Orleans, this twenty-fourth day of September, A. D. 1849.

THEO. H. McCALEB, [SEAL.]
Judge of U. S. district court, eastern district of La.

Attest: ROB. M. LUSHER, *Dp. Cl'k.*

Eastern district of Louisiana, United States district court.—No. 27.

JOHN McDONOGH vs. THE UNITED STATES. } Citation of appeal.

Marshal's return.

Received October 9, 1849, and on the 29th October, 1849, served a copy of the within citation on L. Hunter, esquire, United States district attorney, by handing the same to him in person at New Orleans.

Returned same day.

N. W. BUTLER,
Dp'y U. S. marshal, eastern district of La.

Return registered, October 29, 1849.

ROB. M. LUSHER, *Dp'y Clerk.*